

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 22

To make certain changes to improve the administration of the medicare program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, to require reports on employers with underfunded pension plans, to provide for increased taxpayer procedural protections, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. PICKLE (for himself, Mr. ROSTENKOWSKI, Mr. STARK, Mr. RANGEL, Mr. JACOBS, Mr. FORD of Tennessee, Mr. THOMAS of California, Mr. SUNDQUIST, and Mr. SHAW) introduced the following bill; which was referred jointly to the Committees on Ways and Means, Energy and Commerce, and Post Office and Civil Service

SEPTEMBER 14, 1993

Additional sponsors: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SWIFT, Mr. BARLOW, Mr. CRAMER, Mr. RICHARDSON, Mrs. LLOYD, Mr. GORDON, and Mr. STRICKLAND

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## A BILL

To make certain changes to improve the administration of the medicare program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, to require reports on employers with underfunded pension plans, to provide for increased taxpayer procedural protections, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Program Im-  
3 provement Act of 1993”.

4 **TITLE I—PROVISIONS RELATING**  
5 **TO THE MEDICARE PROGRAM**

6 **SEC. 1000. REFERENCES IN TITLE.**

7 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
8 cept as otherwise specifically provided, whenever in this  
9 title an amendment is expressed in terms of an amend-  
10 ment to or repeal of a section or other provision, the ref-  
11 erence shall be considered to be made to that section or  
12 other provision of the Social Security Act.

13 (b) REFERENCES TO OBRA.—In this Act, the terms  
14 “OBRA-1989” and “OBRA-1990” refer to the Omnibus  
15 Budget Reconciliation Act of 1989 (Public Law 101-239)  
16 and the Omnibus Budget Reconciliation Act of 1990 (Pub-  
17 lic Law 101-508), respectively.

18 **Subtitle A—Durable Medical**  
19 **Equipment**

20 **SEC. 1001. CERTIFICATION OF SUPPLIERS.**

21 (a) REQUIREMENTS.—

22 (1) IN GENERAL.—Section 1834 (42 U.S.C.  
23 1395m) is amended by adding at the end the follow-  
24 ing new subsection:

25 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL  
26 EQUIPMENT AND SUPPLIES.—



1           “(1) ISSUANCE AND RENEWAL OF SUPPLIER  
2       NUMBER.—

3           “(A) PAYMENT.—Except as provided in  
4       subparagraph (C), no payment may be made  
5       under this part after October 1, 1993, for items  
6       furnished by a supplier of medical equipment  
7       and supplies unless such supplier obtains (and  
8       renews at such intervals as the Secretary may  
9       require) a supplier number.

10          “(B) STANDARDS FOR POSSESSING A SUP-  
11       PLIER NUMBER.—A supplier may not obtain a  
12       supplier number unless—

13               “(i) for medical equipment and sup-  
14       plies furnished on or after October 1,  
15       1993, and on or before December 31,  
16       1994, the supplier meets standards pre-  
17       scribed by the Secretary; and

18               “(ii) for medical equipment and sup-  
19       plies furnished on or after January 1,  
20       1995, the supplier meets revised standards  
21       prescribed by the Secretary (in consulta-  
22       tion with representatives of suppliers of  
23       medical equipment and supplies, carriers,  
24       and consumers) that shall include require-  
25       ments that the supplier—



1 “(I) comply with all applicable  
2 State and Federal licensure and regu-  
3 latory requirements;

4 “(II) maintain a physical facility  
5 on an appropriate site;

6 “(III) have proof of appropriate  
7 liability insurance; and

8 “(IV) meet such other require-  
9 ments as the Secretary may specify.

10 “(C) EXCEPTION FOR ITEMS FURNISHED  
11 AS INCIDENT TO A PHYSICIAN’S SERVICE.—  
12 Subparagraph (A) shall not apply with respect  
13 to medical equipment and supplies furnished as  
14 an incident to a physician’s service.

15 “(D) PROHIBITION AGAINST MULTIPLE  
16 SUPPLIER NUMBERS.—The Secretary may not  
17 issue more than one supplier number to any  
18 supplier of medical equipment and supplies un-  
19 less the issuance of more than one number is  
20 appropriate to identify subsidiary or regional  
21 entities under the supplier’s ownership or con-  
22 trol.

23 “(E) PROHIBITION AGAINST DELEGATION  
24 OF SUPPLIER DETERMINATIONS.—The Sec-  
25 retary may not delegate (other than by contract



1 under section 1842) the responsibility to deter-  
2 mine whether suppliers meet the standards nec-  
3 essary to obtain a supplier number.

4 “(2) CERTIFICATES OF MEDICAL NECESSITY.—

5 “(A) STANDARDIZED CERTIFICATES.—Not  
6 later than October 1, 1993, the Secretary shall,  
7 in consultation with carriers under this part,  
8 develop one or more standardized certificates of  
9 medical necessity (as defined in subparagraph  
10 (C)) for medical equipment and supplies for  
11 which the Secretary determines that such a cer-  
12 tificate is necessary.

13 “(B) PROHIBITION AGAINST DISTRIBUTION  
14 BY SUPPLIERS OF CERTIFICATES OF MEDICAL  
15 NECESSITY.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clause (ii), a supplier of medical  
18 equipment and supplies may not distribute  
19 to physicians or to individuals entitled to  
20 benefits under this part for commercial  
21 purposes any completed or partially com-  
22 pleted certificates of medical necessity on  
23 or after October 1, 1993.

24 “(ii) EXCEPTION FOR CERTAIN BILL-  
25 ING INFORMATION.—Clause (i) shall not



1           apply with respect to a certificate of medi-  
2           cal necessity for any item that is not con-  
3           tained on the list of potentially overused  
4           items developed by the Secretary under  
5           subsection (a)(15)(A) to the extent that  
6           such certificate contains only information  
7           completed by the supplier of medical equip-  
8           ment and supplies identifying such supplier  
9           and the beneficiary to whom such medical  
10          equipment and supplies are furnished, a  
11          description of such medical equipment and  
12          supplies, any product code identifying such  
13          medical equipment and supplies, and any  
14          other administrative information (other  
15          than information relating to the bene-  
16          ficiary's medical condition) identified by  
17          the Secretary. In the event a supplier pro-  
18          vides a certificate of medical necessity con-  
19          taining information permitted under this  
20          clause, such certificate shall also contain  
21          the fee schedule amount and the supplier's  
22          charge for the medical equipment or sup-  
23          plies being furnished prior to distribution  
24          of such certificate to the physician.



1           “(iii) PENALTY.—Any supplier of  
2           medical equipment and supplies who know-  
3           ingly and willfully distributes a certificate  
4           of medical necessity in violation of clause  
5           (i) is subject to a civil money penalty in an  
6           amount not to exceed \$1,000 for each such  
7           certificate of medical necessity so distrib-  
8           uted. The provisions of section 1128A  
9           (other than subsections (a) and (b)) shall  
10          apply to civil money penalties under this  
11          subparagraph in the same manner as they  
12          apply to a penalty or proceeding under sec-  
13          tion 1128A(a).

14          “(C) DEFINITION.—For purposes of this  
15          paragraph, the term ‘certificate of medical ne-  
16          cessity’ means a form or other document con-  
17          taining information required by the Secretary to  
18          be submitted to show that a covered item is  
19          reasonable and necessary for the diagnosis or  
20          treatment of illness or injury or to improve the  
21          functioning of a malformed body member.

22          “(3) COVERAGE AND REVIEW CRITERIA.—

23                 “(A) DEVELOPMENT AND ESTABLISH-  
24                 MENT.—Not later than January 1, 1995, the  
25                 Secretary, in consultation with representatives



1 of suppliers of medical equipment and supplies,  
2 individuals enrolled under this part, and appro-  
3 priate medical specialty societies, shall develop  
4 and establish uniform national coverage and  
5 utilization review criteria for 200 items of medi-  
6 cal equipment and supplies selected in accord-  
7 ance with the standards described in subpara-  
8 graph (B). The Secretary shall publish the cri-  
9 teria as part of the instructions provided to fis-  
10 cal intermediaries and carriers under this part  
11 and no further publication, including publica-  
12 tion in the Federal Register, shall be required.

13 “(B) STANDARDS FOR SELECTING ITEMS  
14 SUBJECT TO CRITERIA.—The Secretary may se-  
15 lect an item for coverage under the criteria de-  
16 veloped and established under subparagraph  
17 (A) if the Secretary finds that—

18 “(i) the item is frequently purchased  
19 or rented by beneficiaries;

20 “(ii) the item is frequently subject to  
21 a determination that such item is not  
22 medically necessary; or

23 “(iii) the coverage or utilization cri-  
24 teria applied to the item (as of the date of



1           the enactment of this subsection) is not  
2           consistent among carriers.

3           “(C) ANNUAL REVIEW AND EXPANSION OF  
4           ITEMS SUBJECT TO CRITERIA.—The Secretary  
5           shall annually review the coverage and utiliza-  
6           tion of items of medical equipment and supplies  
7           to determine whether items not included among  
8           the items selected under subparagraph (A)  
9           should be made subject to uniform national cov-  
10          erage and utilization review criteria, and, if ap-  
11          propriate, shall develop and apply such criteria  
12          to such additional items.

13          “(4) DEFINITION.—The term ‘medical equip-  
14          ment and supplies’ means—

15               “(A) durable medical equipment (as de-  
16               fined in section 1861(n));

17               “(B) prosthetic devices (as described in  
18               section 1861(s)(8));

19               “(C) orthotics and prosthetics (as de-  
20               scribed in section 1861(s)(9));

21               “(D) surgical dressings (as described in  
22               section 1861(s)(5));

23               “(E) such other items as the Secretary  
24               may determine; and



1 “(F) for purposes of paragraphs (1) and  
2 (3)—

3 “(i) home dialysis supplies and equip-  
4 ment (as described in section  
5 1861(s)(2)(F)), and

6 “(ii) immunosuppressive drugs (as de-  
7 scribed in section 1861(s)(2)(J)).”.

8 (2) CONFORMING AMENDMENT.—Effective October  
9 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C.  
10 1395m(a)) is repealed.

11 (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON  
12 UTILIZATION OF ITEMS.—Not later than July 1, 1995, the  
13 Secretary shall submit a report to the Committee on Ways  
14 and Means and the Committee on Energy and Commerce  
15 of the House of Representatives and the Committee on  
16 Finance of the Senate analyzing the impact of the uniform  
17 criteria established under section 1834(i)(3)(A) of the So-  
18 cial Security Act (as added by subsection (a)) on the utili-  
19 zation of items of medical equipment and supplies by indi-  
20 viduals enrolled under part B of the medicare program.

21 (c) USE OF COVERED ITEMS BY DISABLED BENE-  
22 FICIARIES.—

23 (1) IN GENERAL.—The Secretary of Health and  
24 Human Services, in consultation with representa-  
25 tives of suppliers of durable medical equipment



1 under part B of the medicare program and individ-  
2 uals entitled to benefits under such program on the  
3 basis of disability, shall conduct a study of the ef-  
4 fects of the methodology for determining payments  
5 for items of such equipment under such part on the  
6 ability of such individuals to obtain items of such  
7 equipment, including customized items.

8 (2) REPORT.—Not later than May 1, 1994, the  
9 Secretary shall submit a report to Congress on the  
10 study conducted under paragraph (1), and shall in-  
11 clude in the report such recommendations as the  
12 Secretary considers appropriate to assure that dis-  
13 abled medicare beneficiaries have access to items of  
14 durable medical equipment.

15 (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-  
16 THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—  
17 Not later than July 1, 1994, the Secretary of Health and  
18 Human Services shall submit a report to the Committees  
19 on Ways and Means and Energy and Commerce of the  
20 House of Representatives and the Committee on Finance  
21 of the Senate describing prosthetic devices or orthotics  
22 and prosthetics covered under part B of the medicare pro-  
23 gram that do not require individualized or custom fitting  
24 and adjustment to be used by a patient. Such report shall  
25 include recommendations for an appropriate methodology



1 for determining the amount of payment for such items  
2 under such program.

3 **SEC. 1002. PROHIBITION AGAINST CARRIER FORUM SHOP-**  
4 **PING.**

5 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.  
6 1395m(a)(12)) is amended to read as follows:

7 “(12) USE OF CARRIERS TO PROCESS  
8 CLAIMS.—

9 “(A) DESIGNATION OF REGIONAL CAR-  
10 RRIERS.—The Secretary may designate, by regu-  
11 lation under section 1842, one carrier for one  
12 or more entire regions to process all claims  
13 within the region for covered items under this  
14 section.

15 “(B) PROHIBITION AGAINST CARRIER  
16 SHOPPING.—(i) No supplier of a covered item  
17 may present or cause to be presented a claim  
18 for payment under this part unless such claim  
19 is presented to the appropriate regional carrier  
20 (as designated by the Secretary).

21 “(ii) For purposes of clause (i), the term  
22 ‘appropriate regional carrier’ means the carrier  
23 having jurisdiction over the geographic area  
24 that includes the permanent residence of the  
25 patient to whom the item is furnished.”.



1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall apply to items furnished on or after  
 3 October 1, 1993.

4 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE  
 5 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing  
 6 in this subsection or the amendment made by this sub-  
 7 section may be construed to restrict the authority of the  
 8 Secretary of Health and Human Services to designate re-  
 9 gional carriers or modify claims jurisdiction rules with re-  
 10 spect to items or services under part B of the medicare  
 11 program that are not covered items under section 1834(a)  
 12 of the Social Security Act or prosthetic devices or orthotics  
 13 and prosthetics under section 1834(h) of such Act.

14 **SEC. 1003. RESTRICTIONS ON CERTAIN MARKETING AND**  
 15 **SALES ACTIVITIES.**

16 (a) PROHIBITING UNSOLICITED TELEPHONE CON-  
 17 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-  
 18 MENT TO MEDICARE BENEFICIARIES.—

19 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.  
 20 1395m(a)) is amended by adding at the end the fol-  
 21 lowing new paragraph:

22 “(17) PROHIBITION AGAINST UNSOLICITED  
 23 TELEPHONE CONTACTS BY SUPPLIERS.—

24 “(A) IN GENERAL.—A supplier of a cov-  
 25 ered item under this subsection may not contact



1 an individual enrolled under this part by tele-  
2 phone regarding the furnishing of a covered  
3 item to the individual (other than a covered  
4 item the supplier has already furnished to the  
5 individual) unless—

6 “(i) the individual gives permission to  
7 the supplier to make contact by telephone  
8 for such purpose; or

9 “(ii) the supplier has furnished a cov-  
10 ered item under this subsection to the indi-  
11 vidual during the 15-month period preced-  
12 ing the date on which the supplier contacts  
13 the individual for such purpose.

14 “(B) PROHIBITING PAYMENT FOR ITEMS  
15 FURNISHED SUBSEQUENT TO UNSOLICITED  
16 CONTACTS.—If a supplier knowingly contacts  
17 an individual in violation of subparagraph (A),  
18 no payment may be made under this part for  
19 any item subsequently furnished to the individ-  
20 ual by the supplier.

21 “(C) EXCLUSION FROM PROGRAM FOR  
22 SUPPLIERS ENGAGING IN PATTERN OF UNSO-  
23 LICITED CONTACTS.—If a supplier knowingly  
24 contacts individuals in violation of subpara-  
25 graph (A) to such an extent that the supplier’s



1           conduct establishes a pattern of contacts in vio-  
2           lation of such subparagraph, the Secretary shall  
3           exclude the supplier from participation in the  
4           programs under this Act, in accordance with  
5           the procedures set forth in subsections (c), (f),  
6           and (g) of section 1128.”.

7           (2) REQUIRING REFUND OF AMOUNTS COL-  
8           LECTED FOR DISALLOWED ITEMS.—Section 1834(a)  
9           (42 U.S.C. 1395m(a)), as amended by paragraph  
10          (1), is amended by adding at the end the following  
11          new paragraph:

12           “(18) REFUND OF AMOUNTS COLLECTED FOR  
13          CERTAIN DISALLOWED ITEMS.—

14           “(A) IN GENERAL.—If a nonparticipating  
15          supplier furnishes to an individual enrolled  
16          under this part a covered item for which no  
17          payment may be made under this part by rea-  
18          son of paragraph (17)(B), the supplier shall re-  
19          fund on a timely basis to the patient (and shall  
20          be liable to the patient for) any amounts col-  
21          lected from the patient for the item, unless—

22           “(i) the supplier establishes that the  
23          supplier did not know and could not rea-  
24          sonably have been expected to know that



1 payment may not be made for the item by  
2 reason of paragraph (17)(B), or

3 “(ii) before the item was furnished,  
4 the patient was informed that payment  
5 under this part may not be made for that  
6 item and the patient has agreed to pay for  
7 that item.

8 “(B) SANCTIONS.—If a supplier knowingly  
9 and willfully fails to make refunds in violation  
10 of subparagraph (A), the Secretary may apply  
11 sanctions against the supplier in accordance  
12 with section 1842(j)(2).

13 “(C) NOTICE.—Each carrier with a con-  
14 tract in effect under this part with respect to  
15 suppliers of covered items shall send any notice  
16 of denial of payment for covered items by rea-  
17 son of paragraph (17)(B) and for which pay-  
18 ment is not requested on an assignment-related  
19 basis to the supplier and the patient involved.

20 “(D) TIMELY BASIS DEFINED.—A refund  
21 under subparagraph (A) is considered to be on  
22 a timely basis only if—

23 “(i) in the case of a supplier who does  
24 not request reconsideration or seek appeal  
25 on a timely basis, the refund is made with-



1 in 30 days after the date the supplier re-  
2 ceives a denial notice under subparagraph  
3 (C), or

4 “(ii) in the case in which such a re-  
5 consideration or appeal is taken, the re-  
6 fund is made within 15 days after the date  
7 the supplier receives notice of an adverse  
8 determination on reconsideration or ap-  
9 peal.”.

10 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)  
11 (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-  
12 graph (12)” and inserting “Paragraphs (12) and (17)”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 subsections (a) and (b) shall apply to items furnished after  
15 the expiration of the 60-day period that begins on the date  
16 of the enactment of this Act.

17 **SEC. 1004. BENEFICIARY LIABILITY FOR NONCOVERED**  
18 **SERVICES.**

19 (a) IN GENERAL.—Section 1879 (42 U.S.C. 1395pp)  
20 is amended by adding at the end the following new sub-  
21 section:

22 “(h) If a supplier of medical equipment and supplies  
23 (as defined in section 1834(i)(4))—



1           “(1) furnishes an item or service to a bene-  
2       ficiary for which no payment may be made by reason  
3       of section 1834(i)(1);

4           “(2) furnishes an item or service to a bene-  
5       ficiary for which payment is denied in advance under  
6       section 1834(a)(15); or

7           “(3) furnishes an item or service to a bene-  
8       ficiary for which payment is denied under section  
9       1862(a)(1);

10 any expenses incurred for items and services furnished to  
11 an individual by such a supplier on an unassigned basis  
12 shall be the responsibility of such supplier. The individual  
13 shall have no financial responsibility for such expenses and  
14 the supplier shall refund on a timely basis to the individual  
15 (and shall be liable to the individual for) any amounts col-  
16 lected from the individual for such items or services. The  
17 provisions of section 1834(a)(18) shall apply to refunds  
18 required under the previous sentence in the same manner  
19 as such provisions apply to refunds under such section.”.

20       (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) shall apply to items or services furnished  
22 on or after October 1, 1993.



1 **SEC. 1005. ADJUSTMENTS FOR INHERENT REASONABLE-**  
2 **NESS.**

3 (a) ADJUSTMENTS MADE TO FINAL PAYMENT  
4 AMOUNTS.—

5 (1) IN GENERAL.—Section 1834(a)(10)(B) (42  
6 U.S.C. 1395m(a)(10)(B)) is amended by adding at  
7 the end the following: “In applying such provisions  
8 to payments for an item under this subsection, the  
9 Secretary shall make adjustments to the payment  
10 basis for the item described in paragraph (1)(B) if  
11 the Secretary determines (in accordance with such  
12 provisions and on the basis of prices and costs appli-  
13 cable at the time the item is furnished) that such  
14 payment basis is not inherently reasonable.”.

15 (2) EFFECTIVE DATE.—The amendment made  
16 by paragraph (1) shall take effect on the date of the  
17 enactment of this Act.

18 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

19 (1) IN GENERAL.—In accordance with section  
20 1834(a)(10)(B) of the Social Security Act (as  
21 amended by subsection (a)), the Secretary of Health  
22 and Human Services shall determine whether the  
23 payment amounts for the items described in para-  
24 graph (2) are not inherently reasonable, and shall  
25 adjust such amounts in accordance with such section  
26 if the amounts are not inherently reasonable.



1           (2) ITEMS DESCRIBED.—The items referred to  
 2           in paragraph (1) are decubitus care equipment,  
 3           transcutaneous electrical nerve stimulators, and any  
 4           other items considered appropriate by the Secretary.

5 **SEC. 1006. PAYMENT FOR OSTOMY SUPPLIES, TRACHE-**  
 6 **OSTOMY SUPPLIES, UROLOGICALS, AND SUR-**  
 7 **GICAL DRESSINGS.**

8           (a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES,  
 9           AND UROLOGICALS.—

10           (1) IN GENERAL.—Section 1834(h)(1) (42  
 11           U.S.C. 1395m(h)(1)) is amended by adding at the  
 12           end the following new subparagraph:

13                   “(E) EXCEPTION FOR CERTAIN ITEMS.—  
 14           Payment for ostomy supplies, tracheostomy  
 15           supplies, and urologicals shall be made in ac-  
 16           cordance with subparagraphs (B) and (C) of  
 17           section 1834(a)(2).”.

18           (2) CONFORMING AMENDMENT.—Section  
 19           1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is  
 20           amended by striking “subparagraph (C),” and in-  
 21           serting “subparagraphs (C) and (E),”.

22           (3) EFFECTIVE DATE.—The amendments made  
 23           by this subsection shall apply to items furnished on  
 24           or after January 1, 1994.

25           (b) SURGICAL DRESSINGS.—



1           (1) IN GENERAL.—Section 1834 (42 U.S.C.  
2       1395m), as amended by section 1001(a), is amended  
3       by adding at the end the following new subsection:

4       “(j) PAYMENT FOR SURGICAL DRESSINGS.—

5           “(1) IN GENERAL.—Payment under this sub-  
6       section for surgical dressings (described in section  
7       1861(s)(5)) shall be made in a lump sum amount  
8       for the purchase of the item in an amount equal to  
9       80 percent of the lesser of—

10           “(A) the actual charge for the item; or

11           “(B) a payment amount determined in ac-  
12       cordance with the methodology described in  
13       subparagraphs (B) and (C) of subsection (a)(2)  
14       (except that in applying such methodology, the  
15       national limited payment amount referred to in  
16       such subparagraphs shall be initially computed  
17       based on local payment amounts using average  
18       reasonable charges for the 12-month period  
19       ending December 31, 1992, increased by the  
20       covered item updates described in such sub-  
21       section for 1993 and 1994)

22           “(2) EXCEPTIONS.—Paragraph (1) shall not  
23       apply to surgical dressings that are—

24           “(A) furnished as an incident to a physi-  
25       cian’s professional service; or



1 “(B) furnished by a home health agency.”.

2 (2) CONFORMING AMENDMENT.—Section

3 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

4 (A) by striking “and” before “(N)”;

5 (B) with respect to the matter inserted by  
6 section 4155(b)(2)(B) of OBRA-1990—

7 (i) by striking “(M)” and inserting “,  
8 and (O)”, and

9 (ii) by transferring and inserting it  
10 (as amended) immediately before the semi-  
11 colon at the end;

12 (C) by striking “and” before “(O)”;

13 (D) by inserting before the semicolon at  
14 the end the following: “, and (P) with respect  
15 to surgical dressings, the amounts paid shall be  
16 the amounts determined under section  
17 1834(j)”.

18 (3) EFFECTIVE DATE.—The amendments made  
19 by this subsection shall apply to items furnished on  
20 or after January 1, 1994.

21 **SEC. 1007. PAYMENTS FOR TENS DEVICES.**

22 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.  
23 1395m(a)(1)(D)) is amended by striking “15 percent” the  
24 second place it appears and inserting “45 percent”.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to items furnished on or after  
3 January 1, 1994.

4 **SEC. 1008. MISCELLANEOUS AND TECHNICAL CORREC-**  
5 **TIONS.**

6 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-  
7 graph (A) of section 1834(a)(14) (42 U.S.C.  
8 1395m(a)(14)) is amended to read as follows:

9 “(A) for 1991 and 1992, the percentage  
10 increase in the consumer price index for all  
11 urban consumers (U.S. city average) for the 12-  
12 month period ending with June of the previous  
13 year reduced by 1 percentage point; and”.

14 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS  
15 AND ADVANCED DETERMINATIONS OF COVERAGE.—(1)  
16 Effective on the date of the enactment of this Act, section  
17 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to  
18 read as follows:

19 “(15) SPECIAL TREATMENT FOR POTENTIALLY  
20 OVERUSED ITEMS.—

21 “(A) DEVELOPMENT OF LIST OF ITEMS BY  
22 SECRETARY.—The Secretary shall develop and  
23 periodically update a list of items for which  
24 payment may be made under this subsection  
25 that are potentially overused, and shall include



1 in such list seat-lift mechanisms, transcutane-  
2 ous electrical nerve stimulators, motorized  
3 scooters, decubitus care mattresses, and any  
4 such other item determined by the Secretary to  
5 be potentially overused on the basis of any of  
6 the following criteria—

7 “(i) the item is marketed directly to  
8 potential patients;

9 “(ii) the item is marketed with an  
10 offer to potential patients to waive the  
11 costs of coinsurance associated with the  
12 item or is marketed as being available at  
13 no cost to policyholders of a medicare sup-  
14 plemental policy (as defined in section  
15 1882(g)(1));

16 “(iii) the item has been subject to a  
17 consistent pattern of overutilization; or

18 “(iv) a high proportion of claims for  
19 payment for such item under this part may  
20 not be made because of the application of  
21 section 1862(a)(1).

22 “(B) ITEMS SUBJECT TO SPECIAL CARRIER  
23 SCRUTINY.—Payment may not be made under  
24 this part for any item contained in the list de-  
25 veloped by the Secretary under subparagraph



1 (A) unless the carrier has subjected the claim  
2 for payment for the item to special scrutiny or  
3 has followed the procedures described in para-  
4 graph (11)(C) with respect to the item.”.

5 (2) Effective January 1, 1994, section 1834(a)(11)  
6 (42 U.S.C. 1395m(a)) is amended by adding at the end  
7 the following new subparagraph:

8 “(C) CARRIER DETERMINATIONS FOR CER-  
9 TAIN ITEMS IN ADVANCE.—A carrier shall de-  
10 termine in advance whether payment for an  
11 item may not be made under this subsection be-  
12 cause of the application of section 1862(a)(1)  
13 if—

14 “(i) the item is a customized item  
15 (other than inexpensive items specified by  
16 the Secretary); or

17 “(ii) the item is a specified covered  
18 item under subparagraph (B).”.

19 (3) Effective for standards applied for contract years  
20 beginning after the date of the enactment of this Act, sec-  
21 tion 1842(c) (42 U.S.C. 1395u(c)) is amended by adding  
22 at the end the following new paragraph:

23 “(4) Each contract under this section which provides  
24 for the disbursement of funds, as described in subsection  
25 (a)(1)(B), shall require the carrier to meet criteria devel-



1 oped by the Secretary to measure the timeliness of carrier  
2 responses to requests for payment of items described in  
3 section 1834(a)(11)(C).”.

4 (4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is  
5 amended by striking “paragraph (10) and paragraph  
6 (11)” and inserting “paragraphs (10) and (11)”.

7 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL  
8 EQUIPMENT SUPPLIER COSTS.—

9 (1) COLLECTION AND ANALYSIS OF SUPPLIER  
10 COST DATA.—The Administration of the Health  
11 Care Financing Administration shall, in consultation  
12 with appropriate organizations, collect data on sup-  
13 plier costs of durable medical equipment for which  
14 payment may be made under part B of the medicare  
15 program, and shall analyze such data to determine  
16 the proportions of such costs attributable to the  
17 service and product components of furnishing such  
18 equipment and the extent to which such proportions  
19 vary by type of equipment and by the geographic re-  
20 gion in which the supplier is located.

21 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-  
22 MENT INDEX; REPORTS.—Not later than January 1,  
23 1995—

24 (A) the Administrator shall submit a re-  
25 port to the Committees on Energy and Com-



1           merce and Ways and Means of the House of  
2           Representatives and the Committee on Finance  
3           of the Senate on the data collected and the  
4           analysis conducted under paragraph (1), and  
5           shall include in such report the Administrator’s  
6           recommendations for a geographic cost adjust-  
7           ment index for suppliers of durable medical  
8           equipment under the medicare program and an  
9           analysis of the impact of such proposed index  
10          on payments under the medicare program; and

11                 (B) the Comptroller General shall submit a  
12          report to the Committees on Energy and Com-  
13          merce and Ways and Means of the House of  
14          Representatives and the Committee on Finance  
15          of the Senate analyzing on a geographic basis  
16          the supplier costs of durable medical equipment  
17          under the medicare program.

18          (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)  
19          (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”  
20          and inserting “56”.

21          (e) OTHER MISCELLANEOUS AND TECHNICAL  
22          AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990  
23          is amended by striking “amendment made by subsection  
24          (a)” and inserting “amendments made by this sub-  
25          section”.



1       (2) Section 4152(c)(2) of OBRA-1990 is amended  
2 by striking “1395m(a)(7)(A)” and inserting  
3 “1395m(a)(7)”.

4       (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.  
5 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause  
6 (v)” and inserting “clause (vi)”.

7       (4) Section 1834(a)(7)(C)(i) (42 U.S.C.  
8 1395m(a)(7)(C)(i)) is amended by striking “or paragraph  
9 (3)”.

10       (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is  
11 amended by striking subparagraph (D).

12       (6) Section 4153(c)(1) of OBRA-1990 is amended  
13 by striking “1834(a)” and inserting “1834(h)”.

14       (7) Section 4153(d)(2) of OBRA-1990 is amended  
15 by striking “Reconiliation” and inserting “Reconcili-  
16 ation”.

17       (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is  
18 amended by striking paragraph (6).

19       (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-  
20 ed—

21               (i) in subparagraphs (A) and (B) of paragraph  
22 (1), by striking “(2) through (7)” each place it ap-  
23 pears and inserting “(2) through (5) and (7)”;

24               (ii) in paragraph (7), by striking “(2) through  
25 (6)” and inserting “(2) through (5)”;



1 (iii) in paragraph (8), by striking “paragraphs  
2 (6) and (7)” each place it appears in the matter pre-  
3 ceding subparagraph (A) and in subparagraph (C)  
4 and inserting “paragraph (7)”; and

5 (iv) in paragraph (8)(A)(i), by striking “de-  
6 scribed—” and all that follows and inserting “de-  
7 scribed in paragraph (7) equal to the average of the  
8 purchase prices on the claims submitted on an as-  
9 signment-related basis for the unused item supplied  
10 during the 6-month period ending with December  
11 1986.”.

12 (9) The amendments made by this subsection shall  
13 take effect as if included in the enactment of OBRA–1990.

14 **Subtitle B—Medicare Secondary**  
15 **Payer**

16 **SEC. 1101. MEDICARE SECONDARY PAYER.**

17 (a) SECONDARY PAYER EXEMPTION FOR MEMBERS  
18 OF RELIGIOUS ORDERS.—Effective as if included in the  
19 enactment of OBRA–1989, section 6202(e)(2) of such Act  
20 is amended by adding at the end the following: “Such  
21 amendment also shall apply to items and services fur-  
22 nished before such date with respect to secondary payor  
23 cases which the Secretary of Health and Human Services  
24 had not identified as of such date.”.



1       (b) IMPROVING IDENTIFICATION OF MEDICARE SEC-  
2       ONDARY PAYER SITUATIONS.—

3               (1) SURVEY OF BENEFICIARIES.—

4                       (A) IN GENERAL.—Section 1862(b)(5) (42  
5       U.S.C. 1395y(b)(5)) is amended by adding at  
6       the end the following new subparagraph:

7                       “(D) OBTAINING INFORMATION FROM  
8       BENEFICIARIES.—Before an individual applies  
9       for benefits under part A or enrolls under part  
10      B, the Administrator shall mail the individual a  
11      questionnaire to obtain information on whether  
12      the individual is covered under a primary plan  
13      and the nature of the coverage provided under  
14      the plan, including the name, address, and iden-  
15      tifying number of the plan.”.

16                      (B) DISTRIBUTION OF QUESTIONNAIRE BY  
17      CONTRACTOR.—The Secretary of Health and  
18      Human Services shall enter into an agreement  
19      with an entity not later than November 1,  
20      1993, to distribute the questionnaire described  
21      in section 1862(b)(5)(D) of the Social Security  
22      Act (as added by subparagraph (A)).

23                      (C) NO MEDICARE SECONDARY PAYOR DE-  
24      NIAL BASED ON FAILURE TO COMPLETE QUES-  
25      TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.



1           1395y(b)(2)) is amended by adding at the end  
2           the following new subparagraph:

3           “(C) TREATMENT OF QUESTIONNAIRES.—  
4           The Secretary may not fail to make payment  
5           under subparagraph (A) solely on the ground  
6           that an individual failed to complete a question-  
7           naire concerning the existence of a primary  
8           plan.”.

9           (2) MANDATORY SCREENING BY PROVIDERS  
10          AND SUPPLIERS UNDER PART B.—

11           (A) IN GENERAL.—Section 1862(b) (42  
12          U.S.C. 1395y(b)) is amended by adding at the  
13          end the following new paragraph:

14          “(6) SCREENING REQUIREMENTS FOR PROVID-  
15          ERS AND SUPPLIERS.—

16           “(A) IN GENERAL.—Notwithstanding any  
17          other provision of this title, no payment may be  
18          made for any item or service furnished under  
19          part B unless the entity furnishing such item or  
20          service completes (to the best of its knowledge  
21          and on the basis of information obtained from  
22          the individual to whom the item or service is  
23          furnished) the portion of the claim form relat-  
24          ing to the availability of other health benefit  
25          plans.



1           “(B) PENALTIES.—An entity that know-  
2           ingly, willfully, and repeatedly fails to complete  
3           a claim form in accordance with subparagraph  
4           (A) or provides inaccurate information relating  
5           to the availability of other health benefit plans  
6           on a claim form under such subparagraph shall  
7           be subject to a civil money penalty of not to ex-  
8           ceed \$2,000 for each such incident. The provi-  
9           sions of section 1128A (other than subsections  
10          (a) and (b)) shall apply to a civil money penalty  
11          under the previous sentence in the same man-  
12          ner as such provisions apply to a penalty or  
13          proceeding under section 1128A(a).”.

14          (B) EFFECTIVE DATE.—The amendment  
15          made by subparagraph (A) shall apply with re-  
16          spect to items and services furnished on or  
17          after July 1, 1993.

18          (c) IMPROVEMENTS IN RECOVERY OF PAYMENTS  
19 FROM PRIMARY PAYERS.—

20               (1) SUBMISSION OF REPORTS ON EFFORTS TO  
21 RECOVER ERRONEOUS PAYMENTS.—

22               (A) FISCAL INTERMEDIARIES UNDER PART  
23 A.—Section 1816 (42 U.S.C. 1396h) is amend-  
24 ed by adding at the end the following new sub-  
25 section:



1 “(k) An agreement with an agency or organization  
 2 under this section shall require that such agency or orga-  
 3 nization submit an annual report to the Secretary describ-  
 4 ing the steps taken to recover payments made for items  
 5 or services for which payment has been or could be made  
 6 under a primary plan (as defined in section  
 7 1862(b)(2)(A)).”.

8 (B) CARRIERS UNDER PART B.—Section  
 9 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amend-  
 10 ed—

11 (i) by striking “and” at the end of  
 12 subparagraphs (G) and (H); and

13 (ii) by inserting after subparagraph  
 14 (H) the following new subparagraph:

15 “(I) will submit annual reports to the Secretary  
 16 describing the steps taken to recover payments made  
 17 under this part for items or services for which pay-  
 18 ment has been or could be made under a primary  
 19 plan (as defined in section 1862(b)(2)(A)).”.

20 (2) REQUIREMENTS UNDER CARRIER PERFORM-  
 21 ANCE EVALUATION PROGRAM.—

22 (A) FISCAL INTERMEDIARIES UNDER PART  
 23 A.—Section 1816(f)(1)(A) (42 U.S.C.  
 24 1396h(f)(1)(A)) is amended by striking “proc-  
 25 essing” and inserting “processing (including the



1           agency’s or organization’s success in recovering  
2           payments made under this title for services for  
3           which payment has been or could be made  
4           under a primary plan (as defined in section  
5           1862(b)(2)(A)))”.

6                   (B) CARRIERS UNDER PART B.—Section  
7           1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended  
8           by adding at the end the following new sub-  
9           paragraph:

10          “(D) In addition to any other standards and criteria  
11       established by the Secretary for evaluating carrier per-  
12       formance under this paragraph relating to avoiding erro-  
13       neous payments, the Secretary shall establish standards  
14       and criteria relating to the carrier’s success in recovering  
15       payments made under this part for items or services for  
16       which payment has been or could be made under a pri-  
17       mary plan (as defined in section 1862(b)(2)(A)).”.

18                   (3) DEADLINE FOR REIMBURSEMENT BY PRI-  
19       MARY PLANS.—

20                   (A)           IN           GENERAL.—Section  
21       1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))  
22       is amended by adding at the end the following  
23       sentence: “If reimbursement is not made to the  
24       appropriate Trust Fund before the expiration of  
25       the 60-day period that begins on the date such



1 notice or other information is received, the Sec-  
2 retary may charge interest (beginning with the  
3 date on which the notice or other information  
4 is received) on the amount of the reimburse-  
5 ment until reimbursement is made (at a rate  
6 determined by the Secretary in accordance with  
7 regulations of the Secretary of the Treasury ap-  
8 plicable to charges for late payments).”.

9 (B) CONFORMING AMENDMENT.—The  
10 heading of clause (i) of section 1862(b)(2)(B) is  
11 amended to read as follows: “REPAYMENT RE-  
12 QUIRED.—”.

13 (C) EFFECTIVE DATE.—The amendments  
14 made by this paragraph shall apply to payments  
15 for items and services furnished on or after the  
16 date of the enactment of this Act.

17 (4) EFFECTIVE DATE.—The amendments made  
18 by paragraphs (1) and (2) shall apply to contracts  
19 with fiscal intermediaries and carriers under title  
20 XVIII of the Social Security Act for years beginning  
21 with 1993.

22 (d) MISCELLANEOUS AND TECHNICAL CORREC-  
23 TIONS.—



1           (1) The sentence in section 1862(b)(1)(C)  
2       added by section 4203(c)(1)(B) of OBRA-1990 is  
3       amended—

4           (A) by striking “on or before January 1,  
5       1996,” and inserting “before January 1,  
6       1996”; and

7           (B) by striking “clauses (i) and (ii)” and  
8       inserting “this subparagraph”.

9           (2) Effective as if included in the enactment of  
10      OBRA-1989, section 1862(b)(1) is amended—

11          (A) in subparagraphs (A)(v) and  
12          (B)(iv)(II), by inserting “, without regard to  
13          section 5000(d) of such Code” before the period  
14          at the end of each subparagraph;

15          (B) in subparagraph (A)(iii), by striking  
16          “current calendar year or the preceding cal-  
17          endar year” and inserting “current calendar  
18          year and the preceding calendar year”; and

19          (C) in the matter in subparagraph (C)  
20          after clause (ii), by striking “taking into ac-  
21          count that” and inserting “paying benefits sec-  
22          ondary to this title when”.

23           (3) Section 4203(c)(2) of OBRA-1990 is  
24      amended—



1 (A) by striking “the application of clause  
2 (iii)” and inserting “the second sentence”;

3 (B) by striking “on individuals” and all  
4 that follows through “section 226A of such  
5 Act”;

6 (C) in clause (ii), by striking “clause” and  
7 inserting “sentence”;

8 (D) in clause (v), by adding “and” at the  
9 end; and

10 (E) in clause (vi)—

11 (i) by inserting “of such Act” after  
12 “1862(b)(1)(C)”, and

13 (ii) by striking the period at the end  
14 and inserting the following: “, without re-  
15 gard to the number of employees covered  
16 by such plans.”.

17 (4) Section 4203(d) of OBRA–1990 is amended  
18 by striking “this subsection” and inserting “this  
19 section”.

20 (5) Except as provided in paragraph (2), the  
21 amendments made by this subsection shall be effec-  
22 tive as if included in the enactment of OBRA–1990.



1       **TITLE II—CUSTOMS OFFICER**  
2                   **PAY REFORM**

3       **SEC. 2001. OVERTIME AND PREMIUM PAY FOR CUSTOMS**  
4                   **OFFICERS.**

5           (a) IN GENERAL.—Section 5 of the Act of February  
6   13, 1911 (19 U.S.C. 261 and 267) is amended to read  
7   as follows:

8       **“SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OF-**  
9                   **FICERS.**

10       “(a) OVERTIME PAY.—

11           “(1) IN GENERAL.—Subject to paragraph (2)  
12       and subsection (c), a customs officer who is officially  
13       assigned to perform work in excess of 40 hours in  
14       the administrative workweek of the officer or in ex-  
15       cess of 8 hours in a day shall be compensated for  
16       that work at an hourly rate of pay that is equal to  
17       2 times the hourly rate of the basic pay of the offi-  
18       cer. For purposes of this paragraph, the hourly rate  
19       of basic pay for a customs officer does not include  
20       any premium pay provided for under subsection (b).

21           “(2) SPECIAL PROVISIONS RELATING TO OVER-  
22       TIME WORK ON CALLBACK BASIS.—

23           “(A) MINIMUM DURATION.—Any work for  
24       which compensation is authorized under para-  
25       graph (1) and for which the customs officer is



1 required to return to the officer's place of work  
2 shall be treated as being not less than 2 hours  
3 in duration; but only if such work begins at  
4 least 1 hour after the end of any previous regu-  
5 larly scheduled work assignment and ends at  
6 least 1 hour before the beginning of the follow-  
7 ing regularly scheduled work assignment.

8 “(B) COMPENSATION FOR COMMUTING  
9 TIME.—

10 “(i) IN GENERAL.—Except as pro-  
11 vided in clause (ii), in addition to the com-  
12 pensation authorized under paragraph (1)  
13 for work to which subparagraph (A) ap-  
14 plies, the customs officer is entitled to be  
15 paid, as compensation for commuting time,  
16 an amount equal to 3 times the hourly rate  
17 of basic pay of the officer.

18 “(ii) EXCEPTION.—Compensation for  
19 commuting time is not payable under  
20 clause (i) if the work for which compensa-  
21 tion is authorized under paragraph (1)—

22 “(I) does not commence within  
23 16 hours of the customs officer's last  
24 regularly scheduled work assignment,  
25 or



1 “(II) commences within 2 hours  
2 of the next regularly scheduled work  
3 assignment of the customs officer.

4 “(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

5 “(1) NIGHT WORK DIFFERENTIAL.—

6 “(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If  
7 the majority of the hours of regularly scheduled  
8 work of a customs officer occur during the pe-  
9 riod beginning at 3 p.m. and ending at 12 a.m.,  
10 the officer is entitled to pay for work during  
11 such period (except for work to which para-  
12 graph (2) or (3) applies) at the officer’s hourly  
13 rate of basic pay plus premium pay amounting  
14 to 15 percent of that basic rate.

15 “(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If  
16 the majority of the hours of regularly scheduled  
17 work of a customs officer occur during the pe-  
18 riod beginning at 11 p.m. and ending at 8 a.m.,  
19 the officer is entitled to pay for work during  
20 such period (except for work to which para-  
21 graph (2) or (3) applies) at the officer’s hourly  
22 rate of basic pay plus premium pay amounting  
23 to 20 percent of that basic rate.

24 “(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—

25 If the regularly scheduled work assignment of a



1 customs officer is 7:30 p.m. to 3:30 a.m., the  
2 officer is entitled to pay for work during such  
3 period (except for work to which paragraph (2)  
4 or (3) applies) at the officer's hourly rate of  
5 basic pay plus premium pay amounting to 15  
6 percent of that basic rate for the period from  
7 7:30 p.m. to 11:30 p.m. and at the officer's  
8 hourly rate of basic pay plus premium pay  
9 amounting to 20 percent of that basic rate for  
10 the period from 11:30 p.m. to 3:30 a.m.

11 “(2) SUNDAY DIFFERENTIAL.—A customs offi-  
12 cer who performs any regularly scheduled work on a  
13 Sunday that is not a holiday is entitled to pay for  
14 that work at the officer's hourly rate of basic pay  
15 plus premium pay amounting to 50 percent of that  
16 basic rate.

17 “(3) HOLIDAY DIFFERENTIAL.—A customs offi-  
18 cer who performs any regularly scheduled work on a  
19 holiday is entitled to pay for that work at the offi-  
20 cer's hourly rate of basic pay plus premium pay  
21 amounting to 100 percent of that basic rate.

22 “(4) TREATMENT OF PREMIUM PAY.—Premium  
23 pay provided for under this subsection may not be  
24 treated as being overtime pay or compensation for  
25 any purpose.



1 “(c) LIMITATIONS.—

2 “(1) FISCAL YEAR CAP.—The aggregate of  
3 overtime pay under subsection (a) (including com-  
4 muting compensation under subsection (a)(2)(B))  
5 and premium pay under subsection (b) that a cus-  
6 toms officer may be paid in any fiscal year may not  
7 exceed \$25,000; except that the Commissioner of  
8 Customs or his designee may waive this limitation in  
9 individual cases in order to prevent excessive costs  
10 or to meet emergency requirements of the Customs  
11 Service.

12 “(2) EXCLUSIVITY OF PAY UNDER THIS SEC-  
13 TION.—A customs officer who receives overtime pay  
14 under subsection (a) or premium pay under sub-  
15 section (b) for time worked may not receive pay or  
16 other compensation for that work under any other  
17 provision of law.

18 “(d) REGULATIONS.—The Secretary of the Treasury  
19 shall prescribe such regulations as are necessary or appro-  
20 priate to carry out this section, including regulations—

21 “(1) to ensure that callback work assignments  
22 are commensurate with the overtime pay authorized  
23 for such work; and



1 “(2) to prevent the disproportionate assignment  
2 of overtime work to customs officers who are near  
3 to retirement.

4 “(e) DEFINITIONS.—As used in this section:

5 “(1) The term ‘customs officer’ means an indi-  
6 vidual performing those functions specified by regu-  
7 lation by the Secretary of the Treasury for a cus-  
8 toms inspector or canine enforcement officer. Such  
9 functions shall be consistent with such applicable  
10 standards as may be promulgated by the Office of  
11 Personnel Management.

12 “(2) The term ‘holiday’ means any day des-  
13 ignated as a holiday under a Federal statute or Ex-  
14 ecutive order.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 2 of the Act of June 3, 1944 (19  
17 U.S.C. 1451a), is repealed.

18 (2) Section 450 of the Tariff Act of 1930 (19  
19 U.S.C. 1450) is amended—

20 (A) by striking out “at night” in the sec-  
21 tion heading and inserting “during overtime  
22 hours”;

23 (B) by striking out “at night” and insert-  
24 ing “during overtime hours”; and



1 (C) by inserting “aircraft,” immediately  
2 before “vessel”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 subsections (a) and (b) apply to customs inspectional serv-  
5 ices provided on or after October 1, 1993.

6 **SEC. 2002. FOREIGN LANGUAGE PROFICIENCY AWARDS**  
7 **FOR CUSTOMS OFFICERS.**

8 Cash awards for foreign language proficiency may,  
9 under regulations prescribed by the Secretary of the  
10 Treasury, be paid to customs officers (as referred to in  
11 section 5(e)(1) of the Act of February 13, 1911) to the  
12 same extent and in the same manner as would be allowable  
13 under subchapter III of chapter 45 of title 5, United  
14 States Code, with respect to law enforcement officers (as  
15 defined by section 4521 of such title).

16 **SEC. 2003. APPROPRIATIONS REIMBURSEMENTS FROM**  
17 **THE CUSTOMS USER FEE ACCOUNT.**

18 Section 13031(f)(3) of the Consolidated Omnibus  
19 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3))  
20 is amended—

21 (1) by amending clause (i) of subparagraph (A)  
22 to read as follows: “(i) in—

23 “(I) paying overtime compensation and  
24 premium pay under section 5 (a) and (b) of the  
25 Act of February 13, 1911,



1 “(II) paying agency contributions to the  
2 Civil Service Retirement and Disability Fund to  
3 match deductions from the overtime compensa-  
4 tion paid under subclause (I), and

5 “(III) providing all preclearance services  
6 for which the recipients of such services are not  
7 required to reimburse the Secretary of the  
8 Treasury, and”; and

9 (2) by striking out “except for costs described  
10 in subparagraph (A)(i) (I) and (II),” in subpara-  
11 graph (B)(i).

12 **SEC. 2004. TREATMENT OF CERTAIN PAY OF CUSTOMS OF-**  
13 **FICERS FOR RETIREMENT PURPOSES.**

14 (a) IN GENERAL.—Section 8331(3) of title 5, United  
15 States Code, is amended—

16 (1) by striking out “and” at the end of sub-  
17 paragraph (C);

18 (2) by striking out the semicolon at the end of  
19 subparagraph (D) and inserting “; and”;

20 (3) by adding after subparagraph (D) the fol-  
21 lowing:

22 “(E) with respect to a customs officer (re-  
23 ferred to in subsection (e)(1) of section 5 of the  
24 Act of February 13, 1911), compensation for  
25 overtime inspectional services provided for



1 under subsection (a) of such section 5, but not  
2 to exceed 50 percent of any statutory maximum  
3 in overtime pay for customs officers which is in  
4 effect for the year involved;” and

5 (4) by striking out “subparagraphs (B), (C),  
6 and (D) of this paragraph,” and inserting “subpara-  
7 graphs (B), (C), (D), and (E) of this paragraph”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 subsection (a) take effect on the date of the enactment  
10 of this Act and apply only with respect to service per-  
11 formed on or after such date.

12 **SEC. 2005. REPORTS.**

13 (a) CUSTOMS USER FEE ACCOUNT REPORTS.—Sub-  
14 paragraph (D) of section 13031(f)(3) of the Consolidated  
15 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.  
16 58c(f)(3)(D)) is amended to read as follows:

17 “(D) At the close of each fiscal year, the  
18 Secretary of the Treasury shall submit a report  
19 to the Committee on Finance of the Senate and  
20 the Committee on Ways and Means of the  
21 House of Representatives—

22 “(i) containing a detailed accounting  
23 of all expenditures from the Customs User  
24 Fee Account during such year, including a  
25 summary of the expenditures, on a port-by-



1 port basis, for which reimbursement has  
2 been provided under subparagraph (A)(ii);

3 “(ii) containing a listing of all call-  
4 back assignments of customs officers for  
5 which overtime compensation was paid  
6 under section 5(a) of the Act of February  
7 13, 1911, and that were less than 1 hour  
8 in duration; and

9 “(iii) containing a listing of all cus-  
10 toms officers who were paid \$25,000 or  
11 more under subsections 5(a) and 5(b) of  
12 the Act of February 13, 1911, including a  
13 listing of the total compensation paid to  
14 each of those customs officers under all  
15 other statutory authority.”.

16 (b) OTHER REPORTS.—

17 (1) GAO REPORT.—The Comptroller General of  
18 the United States shall undertake—

19 (A) an evaluation of the appropriateness  
20 and efficiency of the customs user fee laws for  
21 financing the provision of customs inspectional  
22 services; and

23 (B) a study to determine whether cost sav-  
24 ings in the provision of overtime inspectional  
25 services could be realized by the United States



1 Customs Service through the use of additional  
2 inspectors as opposed to continuing the current  
3 practice of relying on overtime pay.

4 The Comptroller General shall submit a report on  
5 the evaluation and study required under this sub-  
6 section to the Committees by no later than the 1st  
7 anniversary of the date of the enactment of this Act.

8 (2) TREASURY RECOMMENDATION.—On the day  
9 that the President submits the budget for the Unit-  
10 ed States Government for fiscal year 1995 to the  
11 Congress under section 1105(a) of title 31, United  
12 States Code, the Secretary of the Treasury shall  
13 submit to the Committees recommended legislative  
14 proposals for improving the operation of customs  
15 user fee laws in financing the provision of customs  
16 inspectional services.

17 (3) DEFINITION OF COMMITTEES.—For pur-  
18 poses of this subsection, the term “Committees”  
19 means the Committee on Ways and Means of the  
20 House of Representatives and the Committee on Fi-  
21 nance of the Senate.



1 **TITLE III—AVAILABILITY AND**  
2 **USE OF DEATH INFORMATION**  
3 **UNDER THE OLD-AGE, SURVI-**  
4 **VORS, AND DISABILITY IN-**  
5 **SURANCE PROGRAM**

6 **SEC. 3001. AVAILABILITY AND USE OF DEATH INFORMA-**  
7 **TION UNDER THE OLD-AGE, SURVIVORS, AND**  
8 **DISABILITY INSURANCE PROGRAM.**

9 (a) IMPROVEMENTS IN PROGRAM FOR USE OF  
10 DEATH CERTIFICATES TO CORRECT PROGRAM INFORMA-  
11 TION.—

12 (1) ELIMINATION OF STATE RESTRICTIONS ON  
13 USE OF INFORMATION.—Section 205(r)(1) of the So-  
14 cial Security Act (42 U.S.C. 405(r)(1)) is amended  
15 by adding at the end, after and below subparagraph  
16 (B), the following new sentence:

17 “Any contract entered into pursuant to subparagraph (A)  
18 shall not include any restriction on the use of information  
19 obtained by the Secretary pursuant to such contract, ex-  
20 cept to the extent that such use may be restricted under  
21 paragraph (6).”.

22 (2) INFORMATION PROVIDED TO STATE AGEN-  
23 CIES FREE OF CHARGE.—



1 (A) IN GENERAL.—Section 205(r)(4) of  
2 such Act (42 U.S.C. 405(r)(4)) is amended to  
3 read as follows:

4 “(4)(A) In the case of individuals with respect to  
5 whom federally funded benefits are provided by (or  
6 through) a State agency other than under this Act, the  
7 Secretary shall to the extent feasible provide such informa-  
8 tion free of charge through a cooperative arrangement  
9 with such agency, for ensuring proper payment of those  
10 benefits with respect to such individuals, if such arrange-  
11 ment does not conflict with the duties of the Secretary  
12 under paragraph (1).

13 “(B) The Secretary may enter into similar agree-  
14 ments with States to provide information free of charge  
15 for their use in programs wholly funded by the States if  
16 such arrangement does not conflict with the duties of the  
17 Secretary under paragraph (1).”.

18 (B) CONFORMING AMENDMENT.—Section  
19 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is  
20 amended by striking “or State”.

21 (3) USE BY STATES OF SOCIAL SECURITY AC-  
22 COUNT NUMBERS CONTINGENT UPON PARTICIPATION  
23 IN PROGRAM.—Section 205(r)(2) of such Act (42  
24 U.S.C. 405(r)(2)) is amended—

25 (A) by inserting “(A)” after “(2)”; and



1 (B) by adding at the end the following new  
2 subparagraph:

3 “(B) Notwithstanding section 7(a)(2)(B) of the Pri-  
4 vacy Act of 1974 and clauses (i) and (v) of subsection  
5 (c)(2)(C) of this section, any State which is not a party  
6 to a contract with the Secretary meeting the requirements  
7 of paragraph (1) (and any political subdivision thereof)  
8 may not utilize an individual’s social security account  
9 number in the administration of any driver’s license or  
10 motor vehicle registration law.”.

11 (b) STUDY REGARDING IMPROVEMENTS IN GATHER-  
12 ING AND REPORTING OF DEATH INFORMATION.

13 (1) IN GENERAL.—As soon as practicable after  
14 the date of the enactment of this Act, the Secretary  
15 of Health and Human Services shall conduct a study  
16 of possible improvements in the current methods of  
17 gathering and reporting death information by the  
18 Federal, State, and local governments which would  
19 result in more efficient and expeditious handling of  
20 such information.

21 (2) SPECIFIC MATTERS TO BE STUDIED.—In  
22 carrying out the study required under this sub-  
23 section, the Secretary shall—

24 (A) ascertain the delays in the receipt of  
25 death information which are currently encoun-



1           tered by the Social Security Administration and  
2           other agencies in need of such information on  
3           a regular basis,

4                 (B) analyze the causes of such delays,

5                 (C) develop alternative options for improv-  
6           ing Federal, State, and local agency cooperation  
7           in reducing such delays, and

8                 (D) evaluate the costs and benefits associ-  
9           ated with the options referred to in subpara-  
10          graph (C).

11          (3) REPORT.—Not later than June 1, 1994, the  
12          Secretary shall submit a written report to the Com-  
13          mittee on Ways and Means of the House of Rep-  
14          resentatives and the Committee on Finance of the  
15          Senate setting forth the results of the study con-  
16          ducted pursuant to this subsection, together with  
17          such administrative and legislative recommendations  
18          as the Secretary may consider appropriate.

19          (c) EFFECTIVE DATE.—

20                 (1) IN GENERAL.—The amendments made by  
21          subsection (a) shall take effect 1 year after the date  
22          of the enactment of this Act.

23                 (2) PROMOTION OF ENTRY INTO NEW CON-  
24          TRACTS.—As soon as practicable after the date of  
25          the enactment of this Act, the Secretary of Health



1 and Human Services shall take such actions as are  
2 necessary and appropriate to promote entry into  
3 contracts under section 205(r) of the Social Security  
4 Act which are in compliance with the requirements  
5 of the amendments made by subsection (a).

6 **TITLE IV—PBGC REPORT ON EM-**  
7 **PLOYERS WITH UNDER-**  
8 **FUNDED PLANS**

9 **SEC. 4001. REPORT ON EMPLOYERS WITH UNDERFUNDED**  
10 **PLANS.**

11 (a) GENERAL RULE.—The Pension Benefit Guaranty  
12 Corporation shall, on January 31 of each calendar year  
13 after 1993, submit a report to the Congress setting  
14 forth—

15 (1) the name of each contributing sponsor of 1  
16 or more applicable plans having unfunded liabilities  
17 aggregating \$25,000,000 or more, and

18 (2) the name of each contributing sponsor with  
19 an applicable plan which has an unfunded liability in  
20 excess of \$5,000,000 and with respect to which a  
21 minimum funding waiver in excess of \$1,000,000  
22 has been granted.

23 Information may be included in such report only if such  
24 information may be publicly disclosed by the Pension Ben-  
25 efit Guaranty Corporation.



1 (b) DETERMINATIONS OF UNFUNDED LIABILITY.—  
 2 For purposes of subsection (a), determinations of the un-  
 3 funded liability of any plan shall be made by the Pension  
 4 Benefit Guaranty Corporation on the basis of the most  
 5 recent information available to it.

6 (c) APPLICABLE PLAN.—For purposes of subsection  
 7 (a), the term “applicable plan” means any employee pen-  
 8 sion benefit plan (as defined in paragraph (2) of section  
 9 3 of the Employee Retirement Income Security Act of  
 10 1974) covered under subtitle B of title IV of such Act;  
 11 except that such term shall not include a multiemployer  
 12 plan (as defined in section 4001(a)(3) of such Act).

13 (d) CONTRIBUTING SPONSOR.—For purposes of this  
 14 section, the term “contributing sponsor” has the meaning  
 15 given to such term by section 4001(a)(13) of such Act.

## 16 **TITLE V—TAXPAYER BILL OF** 17 **RIGHTS 2**

18 **SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.**

19 (a) SHORT TITLE.—This title may be cited as the  
 20 “Taxpayer Bill of Rights 2”.

21 (b) AMENDMENT OF 1986 CODE.—Except as other-  
 22 wise expressly provided, whenever in this title or title VI  
 23 an amendment or repeal is expressed in terms of an  
 24 amendment to, or repeal of, a section or other provision,



1 the reference shall be considered to be made to a section  
2 or other provision of the Internal Revenue Code of 1986.

3 **Subtitle A—Taxpayer Advocate**

4 **SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER**  
5 **ADVOCATE WITHIN INTERNAL REVENUE**  
6 **SERVICE.**

7 (a) GENERAL RULE.—Section 7802 (relating to  
8 Commissioner of Internal Revenue; Assistant Commis-  
9 sioner (Employee Plans and Exempt Organizations)) is  
10 amended by adding at the end thereof the following new  
11 subsection:

12 “(d) OFFICE OF TAXPAYER ADVOCATE.—

13 “(1) IN GENERAL.—There is established in the  
14 Internal Revenue Service an office to be known as  
15 the ‘Office of the Taxpayer Advocate’. Such office,  
16 including all problem resolution officers, shall be  
17 under the supervision and direction of an official to  
18 be known as the ‘Taxpayer Advocate’ who shall be  
19 appointed by the President by and with the advice  
20 and consent of the Senate, and who shall report di-  
21 rectly to the Commissioner of Internal Revenue. The  
22 Taxpayer Advocate shall be entitled to compensation  
23 at the same rate as the Chief Counsel for the Inter-  
24 nal Revenue Service.

25 “(2) FUNCTIONS OF OFFICE.—



1           “(A) IN GENERAL.—It shall be the func-  
2           tion of the Office of Taxpayer Advocate to—

3                   “(i) assist taxpayers in resolving prob-  
4                   lems with the Internal Revenue Service,

5                   “(ii) identify areas in which taxpayers  
6                   have problems in dealings with the Internal  
7                   Revenue Service,

8                   “(iii) to the extent possible, propose  
9                   changes in the administrative practices of  
10                  the Internal Revenue Service to mitigate  
11                  problems identified under clause (ii), and

12                  “(iv) identify potential legislative  
13                  changes which may be appropriate to miti-  
14                  gate such problems.

15           “(B) ANNUAL REPORTS.—

16                   “(i) OBJECTIVES.—Not later than Oc-  
17                   tober 31 of each calendar year after 1993,  
18                   the Taxpayer Advocate shall report to the  
19                   Committee on Ways and Means of the  
20                   House of Representatives and the Commit-  
21                   tee on Finance of the Senate on the objec-  
22                   tives of the Taxpayer Advocate for the fol-  
23                   lowing calendar year. Any such report shall  
24                   contain full and substantive analysis, in  
25                   addition to statistical information.



1           “(ii) ACTIVITIES.—Not later than  
2           June 30 of each calendar year after 1993,  
3           the Taxpayer Advocate shall report to the  
4           Committee on Ways and Means of the  
5           House of Representatives and the Commit-  
6           tee on Finance of the Senate on the activi-  
7           ties of the Taxpayer Advocate during the  
8           fiscal year ending during such calendar  
9           year. Any such report shall contain full  
10          and substantive analysis, in addition to  
11          statistical information, and shall—

12                 “(I) identify the initiatives the  
13                 Taxpayer Advocate has taken on im-  
14                 proving taxpayer services and Internal  
15                 Revenue Service responsiveness,

16                 “(II) contain recommendations  
17                 received from individuals with the au-  
18                 thority to issue taxpayer assistance  
19                 orders under section 7811,

20                 “(III) contain a summary of at  
21                 least 20 of the most serious problems  
22                 encountered by taxpayers, including a  
23                 description of the nature of such prob-  
24                 lems,



1           “(IV) contain an inventory of the  
2 items described in subclauses (I), (II),  
3 and (III) for which action has been  
4 taken and the result of such action,

5           “(V) contain an inventory of the  
6 items described in subclauses (I), (II),  
7 and (III) for which action remains to  
8 be completed and the period during  
9 which each item has remained on such  
10 inventory,

11           “(VI) contain an inventory of the  
12 items described in subclauses (II) and  
13 (III) for which no action has been  
14 taken, the period during which each  
15 item has remained on such inventory,  
16 the reasons for the inaction, and iden-  
17 tify any Internal Revenue Service offi-  
18 cial who is responsible for such inac-  
19 tion,

20           “(VII) identify any Taxpayer As-  
21 sistance Order which was not honored  
22 by the Internal Revenue Service in a  
23 timely manner, as specified under sec-  
24 tion 7811(b),



1 “(VIII) contain recommendations  
2 for such administrative and legislative  
3 action as may be appropriate to re-  
4 solve problems encountered by tax-  
5 payers, and

6 “(IX) include such other infor-  
7 mation as the Taxpayer Advocate may  
8 deem advisable.

9 “(iii) REPORT TO BE SUBMITTED DI-  
10 RECTLY.—Each report required under this  
11 subparagraph shall be provided directly to  
12 the Committees referred to in clauses (i)  
13 and (ii) without any prior review or com-  
14 ment from the Commissioner of the Inter-  
15 nal Revenue Service, the Secretary of the  
16 Treasury, any other officer or employee of  
17 the Department of the Treasury, or the  
18 Office of Management and Budget.

19 “(3) RESPONSIBILITIES OF COMMISSIONER OF  
20 INTERNAL REVENUE SERVICE.—The Commissioner  
21 of Internal Revenue shall establish procedures re-  
22 quiring a formal response to all recommendations  
23 submitted to the Commissioner by the Taxpayer Ad-  
24 vocate.”

25 (b) CONFORMING AMENDMENTS.—



1           (1) Section 7811 (relating to taxpayer assist-  
2           ance orders) is amended—

3                   (A) by striking “the Office of Ombuds-  
4                   man” in subsection (a) and inserting “the Of-  
5                   fice of the Taxpayer Advocate”, and

6                   (B) by striking “Ombudsman” each place  
7                   it appears (including in the headings of sub-  
8                   sections (e) and (f)) and inserting “Taxpayer  
9                   Advocate”.

10           (2) The heading for section 7802 is amended to  
11           read as follows:

12           **“SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; AS-**  
13                   **SISTANT COMMISSIONERS; TAXPAYER ADVO-**  
14                   **CATE.”**

15           (3) The table of sections for subchapter A of  
16           chapter 80 of subtitle F is amended by striking the  
17           item relating to section 7802 and inserting the fol-  
18           lowing new item:

                  “Sec. 7802. Commissioner of Internal Revenue; Assistant Com-  
                  missioners; Taxpayer Advocate.”

19           (c) EFFECTIVE DATE.—The amendments made by  
20           this section shall take effect on the date of the enactment  
21           of this Act.



1 **SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAX-**  
2 **PAYER ASSISTANCE ORDERS.**

3 (a) TERMS OF ORDERS.—Subsection (b) of section  
4 7811 (relating to terms of taxpayer assistance orders) is  
5 amended—

6 (1) by inserting “within a specified time pe-  
7 riod” after “the Secretary”, and

8 (2) by inserting “take any action as permitted  
9 by law,” after “cease any action,”.

10 (b) LIMITATION ON AUTHORITY TO MODIFY OR RE-  
11 SCIND.—Section 7811(c) (relating to authority to modify  
12 or rescind) is amended to read as follows:

13 “(c) AUTHORITY TO MODIFY OR RESCIND.—Any  
14 Taxpayer Assistance Order issued by the Taxpayer Advo-  
15 cate under this section may be modified or rescinded only  
16 by the Taxpayer Advocate, the Commissioner, or any supe-  
17 rior of either.”

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect on the date of the enactment  
20 of this Act.

21 **Subtitle B—Modifications to**  
22 **Installment Agreement Provisions**

23 **SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION**  
24 **OR DENIAL OF INSTALLMENT AGREEMENTS.**

25 (a) TERMINATIONS.—Subsection (b) of section 6159  
26 (relating to extent to which agreements remain in effect)



1 is amended by adding at the end thereof the following new  
2 paragraph:

3 “(5) NOTICE REQUIREMENTS.—The Secretary  
4 may not take any action under paragraph (2), (3),  
5 or (4) unless—

6 “(A) a notice of such action is provided to  
7 the taxpayer not later than the day 30 days be-  
8 fore the date of such action, and

9 “(B) such notice includes an explanation  
10 why the Secretary intends to take such action.

11 The preceding sentence shall not apply in any case  
12 in which the Secretary believes that collection of any  
13 tax to which an agreement under this section relates  
14 is in jeopardy.”

15 (b) DENIALS.—Section 6159 (relating to agreements  
16 for payment of tax liability in installments) is amended  
17 by adding at the end thereof the following new subsection:

18 “(c) NOTICE REQUIREMENTS FOR DENIALS.—The  
19 Secretary may not deny any request for an installment  
20 agreement under this section unless—

21 “(1) a notice of the proposed denial is provided  
22 to the taxpayer not later than the day 30 days be-  
23 fore the date of such denial, and

24 “(2) such notice includes an explanation why  
25 the Secretary intends to deny such request.



1 The preceding sentence shall not apply in any case in  
2 which the Secretary believes that collection of any tax to  
3 which a request for an agreement under this section re-  
4 lates is in jeopardy.”

5 (c) CONFORMING AMENDMENT.—Paragraph (3) of  
6 section 6159(b) is amended to read as follows:

7 “(3) SUBSEQUENT CHANGE IN FINANCIAL CON-  
8 DITIONS.—If the Secretary makes a determination  
9 that the financial condition of a taxpayer with whom  
10 the Secretary has entered into an agreement under  
11 subsection (a) has significantly changed, the Sec-  
12 retary may alter, modify, or terminate such agree-  
13 ment.”

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on the date 6 months after  
16 the date of the enactment of this Act.

17 **SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF RE-**  
18 **QUEST FOR, OR TERMINATION OF, INSTALL-**  
19 **MENT AGREEMENT.**

20 (a) GENERAL RULE.—Section 6159 (relating to  
21 agreements for payment of tax liability in installments),  
22 as amended by section 1101, is amended by adding at the  
23 end thereof the following new subsection:

24 “(d) ADMINISTRATIVE REVIEW.—The Secretary shall  
25 establish procedures for an independent administrative re-



1 view of denials of requests for, or terminations of, install-  
2 ment agreements under this section.”

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall take effect on January 1, 1994.

## 5 **Subtitle C—Interest**

### 6 **SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.**

7 (a) GENERAL RULE.—Paragraph (1) of section  
8 6404(e) (relating to abatement of interest in certain cases)  
9 is amended—

10 (1) by inserting “unreasonable” before “error”  
11 each place it appears in subparagraphs (A) and (B),  
12 and

13 (2) by striking “ministerial act” each place it  
14 appears and inserting “ministerial or managerial  
15 act”.

16 (b) CLERICAL AMENDMENT.—The subsection head-  
17 ing for subsection (e) of section 6404 is amended by strik-  
18 ing “Assessments” and inserting “Abatement”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to interest accruing with respect  
21 to deficiencies or payments for taxable years beginning  
22 after the date of the enactment of this Act.



1 **SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR**  
2 **PAYMENT OF TAX AFTER NOTICE AND DE-**  
3 **MAND.**

4 (a) GENERAL RULE.—Paragraph (3) of section  
5 6601(e) (relating to payments made within 10 days after  
6 notice and demand) is amended to read as follows:

7 “(3) PAYMENTS MADE WITHIN SPECIFIED PE-  
8 RIOD AFTER NOTICE AND DEMAND.—If notice and  
9 demand is made for payment of any amount and if  
10 such amount is paid within 21 days (10 days if the  
11 amount for which such notice and demand is made  
12 equals or exceeds \$100,000) after the date of such  
13 notice and demand, interest under this section on  
14 the amount so paid shall not be imposed for the pe-  
15 riod after the date of such notice and demand.”

16 (b) CONFORMING AMENDMENT.—Paragraph (3) of  
17 section 6651(a) (relating to addition to tax for failure to  
18 file tax return or pay tax) is amended by striking “10  
19 days” and inserting “21 days (10 days if the amount for  
20 which such notice and demand is made equals or exceed  
21 \$100,000)”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply in the case of any notice and de-  
24 mand given after June 30, 1994.



## 1                   **Subtitle D—Joint Returns**

### 2   **SEC. 5301. DISCLOSURE OF COLLECTION ACTIVITIES.**

3           (a) GENERAL RULE.—Subsection (e) of section 6103  
4 (relating to disclosure to persons having material interest)  
5 is amended by adding at the end thereof the following new  
6 paragraph:

7                   “(8) DISCLOSURE OF COLLECTION ACTIVITIES  
8 WITH RESPECT TO JOINT RETURN.—If any defi-  
9 ciency of tax with respect to a joint return is as-  
10 sessed and the individuals filing such return are no  
11 longer married or no longer reside in the same  
12 household, upon request in writing of either of such  
13 individuals, the Secretary may disclose in writing to  
14 the individual making the request whether the Sec-  
15 retary has attempted to collect such deficiency from  
16 such other individual, the general nature of such col-  
17 lection activities, and the amount collected.”

18          (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect on the date of the enact-  
20 ment of this Act.

### 21   **SEC. 5302. JOINT RETURN MAY BE MADE AFTER SEPARATE** 22                   **RETURNS WITHOUT FULL PAYMENT OF TAX.**

23          (a) GENERAL RULE.—Paragraph (2) of section  
24 6013(b) (relating to limitations on filing of joint return  
25 after filing separate returns) is amended by striking sub-



1 paragraph (A) and redesignating the following subpara-  
 2 graphs accordingly.

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 subsection (a) shall apply to taxable years beginning after  
 5 the date of the enactment of this Act.

## 6 **Subtitle E—Collection Activities**

### 7 **SEC. 5401. MODIFICATIONS TO LIEN AND LEVY PROVI-** 8 **SIONS.**

9 (a) WITHDRAWAL OF CERTAIN NOTICES.—Section  
 10 6323 (relating to validity and priority against certain per-  
 11 sons) is amended by adding at the end thereof the follow-  
 12 ing new subsection:

13 “(j) WITHDRAWAL OF NOTICE IN CERTAIN CIR-  
 14 CUMSTANCES.—

15 “(1) IN GENERAL.—The Secretary may with-  
 16 draw a notice of a lien filed under this section and  
 17 this chapter shall be applied as if the withdrawn no-  
 18 tice had not been filed, if the Secretary determines  
 19 that—

20 “(A) the filing of such notice was pre-  
 21 mature or otherwise not in accordance with ad-  
 22 ministrative procedures of the Secretary,

23 “(B) the taxpayer has entered into an  
 24 agreement under section 6159 to satisfy the tax  
 25 liability for which the lien was imposed by



1 means of installment payments, unless such  
2 agreement provides otherwise,

3 “(C) the withdrawal of such notice will fa-  
4 cilitate the collection of the tax liability, or

5 “(D) with the consent of the taxpayer or  
6 the Taxpayer Advocate, the withdrawal of such  
7 notice would be in the best interests of the tax-  
8 payer (as determined by the Taxpayer Advoca-  
9 cate) and the United States.

10 Any such withdrawal shall be made by filing notice  
11 thereof at the same office as the withdrawn notice.

12 A copy of such notice of withdrawal shall be pro-  
13 vided to the taxpayer.

14 “(2) NOTICE TO CREDIT AGENCIES, ETC.—

15 Upon written request by the taxpayer with respect  
16 to whom a notice of a lien was withdrawn under  
17 paragraph (1), the Secretary shall promptly make  
18 reasonable efforts to notify credit reporting agencies,  
19 and any financial institution or creditor whose name  
20 and address is specified in such request, of the with-  
21 drawal of such notice. Any such request shall be in  
22 such form as the Secretary may prescribe.”

23 (b) RETURN OF LEVIED PROPERTY IN CERTAIN  
24 CASES.—Section 6343 (relating to authority to release



1 levy and return property) is amended by adding at the  
2 end thereof the following new subsection:

3 “(d) RETURN OF PROPERTY IN CERTAIN CASES.—  
4 If—

5 “(1) any property has been levied upon, and

6 “(2) the Secretary determines that—

7 “(A) the levy on such property was pre-  
8 mature or otherwise not in accordance with ad-  
9 ministrative procedures of the Secretary,

10 “(B) the taxpayer has entered into an  
11 agreement under section 6159 to satisfy the tax  
12 liability for which the levy was imposed by  
13 means of installment payments, unless such  
14 agreement provides otherwise,

15 “(C) the return of such property will facili-  
16 tate the collection of the tax liability, or

17 “(D) with the consent of the taxpayer or  
18 the Taxpayer Advocate, the return of such  
19 property would be in the best interests of the  
20 taxpayer (as determined by the Taxpayer Advo-  
21 cate) and the United States,

22 the provisions of subsection (b) shall apply in the same  
23 manner as if such property had been wrongly levied upon,  
24 except that no interest shall be allowed under subsection  
25 (c).”



1 (c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION  
2 AMOUNTS.—

3 (1) FUEL, ETC.—Paragraph (2) of section  
4 6334(a) (relating to fuel, provisions, furniture, and  
5 personal effects exempt from levy) is amended—

6 (A) by striking “If the taxpayer is the  
7 head of a family, so” and inserting “So”, and

8 (B) by striking “\$1,650 (\$1,550 in the  
9 case of levies issued during 1989)” and insert-  
10 ing “\$1,700”.

11 (2) BOOKS, ETC.—Paragraph (3) of section  
12 6334(a) (relating to books and tools of a trade, busi-  
13 ness, or profession exempt from levy) is amended by  
14 striking “\$1,100 (\$1,050 in the case of levies issued  
15 during 1989)” and inserting “\$1,200”.

16 (3) INDEXED FOR INFLATION.—Section 6334  
17 (relating to property exempt from levy) is amended  
18 by adding at the end thereof the following new sub-  
19 section:

20 “(f) INFLATION ADJUSTMENTS.—

21 “(1) IN GENERAL.—In the case of any calendar  
22 year beginning after 1994, each dollar amount re-  
23 ferred to in paragraphs (2) and (3) of subsection (a)  
24 shall be increased by an amount equal to—

25 “(A) such dollar amount, multiplied by



1           “(B) the cost-of-living adjustment deter-  
2           mined under section 1(f)(3) for such calendar  
3           year, by substituting ‘calendar year 1993’ for  
4           ‘calendar year 1989’ in subparagraph (B)  
5           thereof.

6           “(2) ROUNDING.—If any dollar amount after  
7           being increased under paragraph (1) is not a mul-  
8           tiple of \$10, such dollar amount shall be rounded to  
9           the nearest multiple of \$10 (or, if such dollar  
10          amount is a multiple of \$5, such dollar amount shall  
11          be increased to the next higher multiple of \$10).”

12          (d) EFFECTIVE DATES.—

13           (1) IN GENERAL.—Except as provided in para-  
14           graph (2), the amendments made by this section  
15           shall take effect on the date of the enactment of this  
16           Act.

17           (2) EXEMPT AMOUNTS.—The amendments  
18           made by subsection (c) shall take effect with respect  
19           to levies issued after December 31, 1993.

20   **SEC. 5402. OFFERS-IN-COMPROMISE.**

21           (a) GENERAL RULE.—Subsection (a) of section 7122  
22           (relating to compromises) is amended by adding at the end  
23           thereof the following new sentence: “The Secretary may  
24           make such a compromise in any case where the Secretary



1 determines that such compromise would be in the best in-  
2 terests of the United States.”.

3 (b) REVIEW REQUIREMENTS.—Subsection (b) of sec-  
4 tion 7122 (relating to records) is amended by striking  
5 “\$500.” and inserting “\$50,000. However, such com-  
6 promise shall be subject to continuing quality review by  
7 the Secretary.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect on the date of the enactment  
10 of this Act.

11 **SEC. 5403. NOTIFICATION OF EXAMINATION.**

12 (a) IN GENERAL.—Section 7605 (relating to restric-  
13 tions on examination of taxpayer) is amended by redesignig-  
14 nating subsection (c) as subsection (d) and by inserting  
15 after subsection (b) the following new subsection:

16 “(c) NOTIFICATION REQUIREMENT.—No examina-  
17 tion described in subsection (a) shall be made unless the  
18 Secretary notifies the taxpayer in writing by mail to an  
19 address determined under section 6212(b) that the tax-  
20 payer is under examination and provides the taxpayer with  
21 an explanation of the process as described in section  
22 7521(b)(1). The preceding sentence shall not apply in the  
23 case of any examination if the Secretary determines  
24 that—



9 (b) CONFORMING AMENDMENT.—Paragraph (1) of  
10 section 7521(b) (relating to safeguards) is amended by  
11 striking “or at”.

15 **SEC. 5404. INCREASE IN LIMIT ON RECOVERY OF CIVIL**  
16 **DAMAGES FOR UNAUTHORIZED COLLECTION**  
17 **ACTIONS.**

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.



1 **SEC. 5405. SAFEGUARDS RELATING TO DESIGNATED SUM-**  
2 **MONS.**

3 (a) STANDARD OF REVIEW.—Subparagraph (A) of  
4 section 6503(k)(2) (defining designated summons) is  
5 amended by redesignating clauses (i) and (ii) as clauses  
6 (ii) and (iii), respectively, and by inserting before clause  
7 (ii) (as so redesignated) the following new clause:

8 “(i) the issuance of such summons is  
9 preceded by a review of such issuance by  
10 the regional counsel of the Office of Chief  
11 Counsel for the region in which the exam-  
12 ination of the corporation is being con-  
13 ducted.”.

14 (b) NOTICE REQUIREMENTS FOR ISSUANCE.—Sec-  
15 tion 6503(k) is amended by adding at the end thereof the  
16 following new paragraph:

17 “(4) NOTICE REQUIREMENTS.—With respect to  
18 any summons referred to in paragraph (1)(A) issued  
19 to any person other than the corporation, the Sec-  
20 retary shall promptly notify the corporation, in writ-  
21 ing, that such summons has been issued with respect  
22 to such corporation’s return of tax.”

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to summons issued after the date  
25 of the enactment of this Act.



1     **Subtitle F—Information Returns**

2     **SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE**  
3                     **STATEMENTS REQUIRED TO BE SHOWN ON**  
4                     **SUCH STATEMENT.**

5         (a) GENERAL RULE.—The following provisions are  
6 each amended by striking “name and address” and insert-  
7 ing “name, address, and phone number of the information  
8 contact”:

- 9             (1) Section 6041(d)(1).  
10            (2) Section 6041A(e)(1).  
11            (3) Section 6042(c)(1).  
12            (4) Section 6044(e)(1).  
13            (5) Section 6045(b)(1).  
14            (6) Section 6049(c)(1)(A).  
15            (7) Section 6050B(b)(1).  
16            (8) Section 6050H(d)(1).  
17            (9) Section 6050I(e)(1).  
18            (10) Section 6050J(e).  
19            (11) Section 6050K(b)(1).  
20            (12) Section 6050N(b)(1).

21         (b) EFFECTIVE DATE.—The amendments made by  
22 subsection (a) shall apply to statements required to be fur-  
23 nished after December 31, 1994 (determined without re-  
24 gard to any extension).



1 **SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF**  
2 **INFORMATION RETURNS.**

3 (a) GENERAL RULE.—Subchapter B of chapter 76  
4 (relating to proceedings by taxpayers and third parties)  
5 is amended by redesignating section 7434 as section 7435  
6 and by inserting after section 7433 the following new sec-  
7 tion:

8 **“SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF**  
9 **INFORMATION RETURNS.**

10 “(a) IN GENERAL.—If any person willfully files a  
11 false or fraudulent information return with respect to pay-  
12 ments purported to be made to any other person, such  
13 other person may bring a civil action for damages against  
14 the person so filing such return.

15 “(b) DAMAGES.—In any action brought under sub-  
16 section (a), upon a finding of liability on the part of the  
17 defendant, the defendant shall be liable to the plaintiff in  
18 an amount equal to the greater of \$5,000 or the sum of—

19 “(1) any actual damages sustained by the plain-  
20 tiff as a proximate result of the filing of the false  
21 or fraudulent information return (including any  
22 costs attributable to resolving deficiencies asserted  
23 as a result of such filing), and

24 “(2) the costs of the action.

25 “(c) PERIOD FOR BRINGING ACTION.—Notwith-  
26 standing any other provision of law, an action to enforce



1 the liability created under this section may be brought  
 2 without regard to the amount in controversy and may be  
 3 brought only within the later of—

4 “(1) 4 years after the date of the filing of the  
 5 false or fraudulent information return, or

6 “(2) 1 year after the date such false or fraudu-  
 7 lent information return would have been discovered  
 8 by exercise of reasonable care.

9 “(d) COPY OF COMPLAINT FILED WITH IRS.—Any  
 10 person bringing an action under subsection (a) shall pro-  
 11 vide a copy of the complaint to the Internal Revenue Serv-  
 12 ice upon the filing of such complaint with the court.

13 “(e) FINDING OF COURT TO INCLUDE CORRECT  
 14 AMOUNT OF PAYMENT.—The judgment of the court in an  
 15 action brought under subsection (a) shall include a finding  
 16 of the correct amount which should have been reported  
 17 in the information return.

18 “(f) INFORMATION RETURN.—For purposes of this  
 19 section, the term ‘information return’ means any state-  
 20 ment described in section 6724(d)(1)(A).”

21 (b) CLERICAL AMENDMENT.—The table of sections  
 22 for subchapter B of chapter 76 is amended by striking  
 23 the item relating to section 7434 and inserting the follow-  
 24 ing:

“Sec. 7434. Civil damages for fraudulent filing of information re-  
 turns.

“Sec. 7435. Cross references.”



1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to false or fraudulent information  
3 returns filed after the date of the enactment of this Act.

4 **SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF IN-**  
5 **FORMATION RETURNS.**

6 (a) GENERAL RULE.—Section 6201 (relating to as-  
7 sessment authority) is amended by redesignating sub-  
8 section (d) as subsection (e) and by inserting after sub-  
9 section (c) the following new subsection:

10 “(d) REQUIRED REASONABLE VERIFICATION OF IN-  
11 FORMATION RETURNS.—In any court proceeding, if a tax-  
12 payer asserts a reasonable dispute with respect to any  
13 item of income reported on an information return filed  
14 with the Secretary under subpart B of part III of sub-  
15 chapter A of chapter 61 by a third party and the taxpayer  
16 has fully cooperated with the Secretary (including provid-  
17 ing, within a reasonable period of time, access to and in-  
18 spection of all witnesses, information, and documents  
19 within the control of the taxpayer as reasonably requested  
20 by the Secretary), the Secretary shall present reasonable  
21 and probative information concerning such deficiency in  
22 addition to such information return.”

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall take effect on the date of the enact-  
25 ment of this Act.



1 **Subtitle G—Modifications to Pen-**  
2 **alty for Failure to Collect and**  
3 **Pay Over Tax**

4 **SEC. 5601. PRELIMINARY NOTICE REQUIREMENT.**

5 (a) IN GENERAL.—Section 6672 (relating to failure  
6 to collect and pay over tax, or attempt to evade or defeat  
7 tax) is amended by redesignating subsection (b) as sub-  
8 section (c) and by inserting after subsection (a) the follow-  
9 ing new subsection:

10 “(b) PRELIMINARY NOTICE REQUIREMENT.—

11 “(1) IN GENERAL.—No penalty shall be im-  
12 posed under subsection (a) unless the Secretary noti-  
13 fies the taxpayer in writing by mail to an address as  
14 determined under section 6212(b) that the taxpayer  
15 shall be subject to an assessment of such penalty.

16 “(2) TIMING OF NOTICE.—The mailing of the  
17 notice described in paragraph (1) shall precede any  
18 notice and demand of any penalty under subsection  
19 (a) by at least 60 days.

20 “(3) STATUTE OF LIMITATIONS.—If a notice  
21 described in paragraph (1) with respect to any pen-  
22 alty is mailed before the expiration of the period  
23 provided by section 6501 for the assessment of such  
24 penalty (determined without regard to this para-  
25 graph), the period provided by such section for the



1       assessment of such penalty shall not expire before  
2       the date 90 days after the date on which such notice  
3       was mailed.

4               “(4) EXCEPTION FOR JEOPARDY.—This sub-  
5       section shall not apply if the Secretary finds that the  
6       collection of the penalty is in jeopardy.”

7       (b) EFFECTIVE DATE.—The amendment made by  
8       subsection (a) shall apply to assessments made after June  
9       30, 1994.

10   **SEC. 5602. NO PENALTY IF PROMPT NOTIFICATION OF THE**  
11               **SECRETARY.**

12       (a) IN GENERAL.—Section 6672 (relating to failure  
13       to collect and pay over tax, or attempt to evade or defeat  
14       tax) is amended by adding at the end thereof the following  
15       new subsection:

16               “(d) PENALTY NOT APPLICABLE WHERE PROMPT  
17       NOTIFICATION OF FAILURE.—

18               “(1) IN GENERAL.—A person shall not be liable  
19       for any penalty under subsection (a) by reason of  
20       any failure referred to in subsection (a) if—

21                       “(A) such person is not a significant  
22                       owner, or highly compensated employee, of the  
23                       trade or business with respect to which such  
24                       failure occurred,



1           “(B) such person notifies the Secretary (in  
2           such manner as he may prescribe) that such  
3           failure has occurred within 10 days after the  
4           date of such failure,

5           “(C) such notification was before any no-  
6           tice by the Secretary to any person with respect  
7           to such failure, and

8           “(D) such failure is not a part of a plan  
9           to defraud the Federal Government.

10          “(2) DEFINITIONS.—For purposes of paragraph  
11          (1)—

12               “(A) SIGNIFICANT OWNER.—The term  
13               ‘significant owner’ means—

14                   “(i) any person holding an interest as  
15                   a proprietor in a trade or business carried  
16                   on as a proprietorship, and

17                   “(ii) in the case of a trade or business  
18                   conducted by a corporation or partnership,  
19                   any person who is a 5-percent owner (as  
20                   defined in section 416(i)(1)) in such cor-  
21                   poration or partnership, as the case may  
22                   be.

23               “(B) HIGHLY COMPENSATED EM-  
24               PLOYEE.—The term ‘highly compensated em-  
25               ployee’ means any employee who receives com-



1           pensation from the employer at an annual rate  
2           in excess of \$75,000.

3           “(3) SPECIAL RULES.—

4                   “(A) ONE-TIME RELIEF.—This subsection  
5           shall apply only once with respect to—

6                           “(i) any person, and

7                           “(ii) any trade or business with re-  
8                   spect to which the failure described in sub-  
9                   section (a) occurred.

10                   “(B) APPLICATION OF SUBSECTION.—This  
11           subsection shall not apply if it results in no per-  
12           son being held liable for the penalty described  
13           in subsection (a).”

14           (b) EFFECTIVE DATE.—The amendment made by  
15           subsection (a) shall apply in the case of failures after the  
16           date of the enactment of this Act.

17   **SEC. 5603. DISCLOSURE OF CERTAIN INFORMATION**  
18                   **WHERE MORE THAN 1 PERSON SUBJECT TO**  
19                   **PENALTY.**

20           (a) IN GENERAL.—Subsection (e) of section 6103  
21           (relating to disclosure to persons having material interest),  
22           as amended by section 5301, is amended by adding at the  
23           end thereof the following new paragraph:

24                   “(9) DISCLOSURE OF CERTAIN INFORMATION  
25           WHERE MORE THAN 1 PERSON SUBJECT TO PEN-



1       ALTY UNDER SECTION 6672.—If the Secretary deter-  
2       mines that a person is liable for a penalty under sec-  
3       tion 6672(a) with respect to any failure, upon re-  
4       quest in writing of such person, the Secretary shall  
5       disclose in writing to such person—

6               “(A) the name of any other person whom  
7       the Secretary has determined to be liable for  
8       such penalty with respect to such failure, and

9               “(B) whether the Secretary has attempted  
10       to collect such penalty from such other person,  
11       the general nature of such collection activities,  
12       and the amount collected.”

13       (b) EFFECTIVE DATE.—The amendment made by  
14       subsection (a) shall take effect on the date of the enact-  
15       ment of this Act.

16       **SEC. 5604. PENALTIES UNDER SECTION 6672.**

17       (a) PUBLIC INFORMATION REQUIREMENTS.—The  
18       Secretary of the Treasury or the Secretary’s delegate  
19       (hereafter in this section referred to as the “Secretary”)  
20       shall take such actions as may be appropriate to ensure  
21       that employees are aware of their responsibilities under  
22       the Federal tax depository system, the circumstances  
23       under which employees may be liable for the penalty im-  
24       posed by section 6672 of the Internal Revenue Code of  
25       1986, and the responsibility to promptly report to the In-



1 ternal Revenue Service any failure referred to in sub-  
2 section (a) of such section 6672. Such actions shall in-  
3 clude—

4 (1) printing of a warning on deposit coupon  
5 booklets and the appropriate tax returns that certain  
6 employees may be liable for the penalty imposed by  
7 such section 6672, and

8 (2) the development of a special information  
9 packet.

10 (b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZA-  
11 TIONS.—

12 (1) VOLUNTARY BOARD MEMBERS.—

13 (A) IN GENERAL.—The penalty under sec-  
14 tion 6672 of the Internal Revenue Code of 1986  
15 shall not be imposed on unpaid, volunteer mem-  
16 bers of any board of trustees or directors of an  
17 organization referred to in section 501 of such  
18 Code to the extent such members are solely  
19 serving in an honorary capacity, do not partici-  
20 pate in the day-to-day or financial operations of  
21 the organization, and do not have actual knowl-  
22 edge of the failure on which such penalty is im-  
23 posed.

24 (B) APPLICATION OF PARAGRAPH.—This  
25 paragraph shall not apply if it results in no per-



1 son being held liable for the penalty described  
2 in section 6672(a) of the Internal Revenue  
3 Code of 1986.

4 (2) DEVELOPMENT OF EXPLANATORY MATE-  
5 RIALS.—The Secretary shall develop materials ex-  
6 plaining the circumstances under which board mem-  
7 bers of tax-exempt organizations (including vol-  
8 untary and honorary members) may be subject to  
9 penalty under section 6672 of such Code. Such ma-  
10 terials shall be made available to tax-exempt organi-  
11 zations.

12 (3) IRS INSTRUCTIONS.—The Secretary shall  
13 clarify the instructions to Internal Revenue Service  
14 employees on the application of the penalty under  
15 section 6672 of such Code with regard to voluntary  
16 members of boards of trustees or directors of tax-ex-  
17 empt organizations.

18 (c) PROMPT NOTIFICATION.—To the maximum ex-  
19 tent practicable, the Secretary shall notify all persons who  
20 have failed to make timely and complete deposit of any  
21 taxes described in section 6672 of the Internal Revenue  
22 Code of 1986 of such failure within 30 days after the re-  
23 turn was filed reflecting such failure or after the date on  
24 which the Secretary is first aware of such failure. If the  
25 person failing to make the deposit is not an individual,



1 the Secretary shall notify the entity subject to such deposit  
2 requirement and that entity shall notify, within 15 days  
3 of the notification by the Secretary, all officers, general  
4 partners, trustees, or other managers of the failure.

## 5 **Subtitle H—Awarding of Costs and** 6 **Certain Fees**

### 7 **SEC. 5701. MOTION FOR DISCLOSURE OF INFORMATION.**

8 Paragraph (4) of section 7430(c) (defining prevailing  
9 party) is amended by adding at the end thereof the follow-  
10 ing new subparagraph:

11 “(C) MOTION FOR DISCLOSURE OF INFOR-  
12 MATION.—Once a taxpayer substantially pre-  
13 vails as described in subparagraph (A)(ii), the  
14 taxpayer may file a motion for an order requir-  
15 ing the disclosure (within a reasonable period of  
16 time specified by the court) of all information  
17 and copies of relevant records in the possession  
18 of the Internal Revenue Service with respect to  
19 such taxpayer’s case and the substantial jus-  
20 tification for the position taken by the Internal  
21 Revenue Service.”

### 22 **SEC. 5702. INCREASED LIMIT ON ATTORNEY FEES.**

23 Paragraph (1) of section 7430(c) (defining reason-  
24 able litigation costs) is amended—



1 (1) by striking “\$75” in clause (iii) of subpara-  
2 graph (B) and inserting “\$110”,

3 (2) by striking “an increase in the cost of living  
4 or” in clause (iii) of subparagraph (B), and

5 (3) by adding after clause (iii) the following:

6 “In the case of any calendar year beginning after  
7 1993, the dollar amount referred to in clause (iii)  
8 shall be increased by an amount equal to such dollar  
9 amount multiplied by the cost-of-living adjustment  
10 determined under section 1(f)(3) for such calendar  
11 year, by substituting ‘calendar year 1992’ for ‘cal-  
12 endar year 1989’ in subparagraph (B) thereof. If  
13 any dollar amount after being increased under the  
14 preceding sentence is not a multiple of \$10, such  
15 dollar amount shall be rounded to the nearest mul-  
16 tiple of \$10 (or, if such dollar amount is a multiple  
17 of \$5, such dollar amount shall be increased to the  
18 next higher multiple of \$10).”

19 **SEC. 5703. FAILURE TO AGREE TO EXTENSION NOT TAKEN**  
20 **INTO ACCOUNT.**

21 Paragraph (1) of section 7430(b) (relating to require-  
22 ment that administrative remedies be exhausted) is  
23 amended by adding at the end thereof the following new  
24 sentence: “Any failure to agree to an extension of the time  
25 for the assessment of any tax shall not be taken into ac-



1 count for purposes of determining whether the prevailing  
 2 party meets the requirements of the preceding sentence.”

3 **SEC. 5704. EFFECTIVE DATE.**

4 The amendments made by this subtitle shall apply in  
 5 the case of proceedings commenced after the date of the  
 6 enactment of this Act.

7 **Subtitle I—Other Provisions**

8 **SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.**

9 (a) GENERAL RULE.—Subsection (a) of section 7522  
 10 (relating to content of tax due, deficiency, and other no-  
 11 tices) is amended by striking “shall describe the basis for,  
 12 and identify” and inserting “shall set forth the adjust-  
 13 ments which are the basis for, and shall identify”.

14 (b) EFFECTIVE DATE.—The amendment made by  
 15 subsection (a) shall apply to notices sent after the date  
 16 6 months after the date of the enactment of this Act.

17 **SEC. 5802. TREATMENT OF SUBSTITUTE RETURNS UNDER**  
 18 **SECTION 6651.**

19 (a) GENERAL RULE.—Section 6651 (relating to fail-  
 20 ure to file tax return or to pay tax) is amended by adding  
 21 at the end thereof the following new subsection:

22 “(h) TREATMENT OF RETURNS PREPARED BY SEC-  
 23 RETARY UNDER SECTION 6020(b).—In the case of any  
 24 return made by the Secretary under section 6020(b)—



1 “(1) such return shall be disregarded for pur-  
 2 poses of determining the amount of the addition  
 3 under paragraph (1) of subsection (a), but

4 “(2) such return shall be treated as the return  
 5 filed by the taxpayer for purposes of determining the  
 6 amount of the addition under paragraphs (2) and  
 7 (3) of subsection (a).”

8 (b) EFFECTIVE DATE.—The amendment made by  
 9 subsection (a) shall apply in the case of any return the  
 10 due date for which (determined without regard to exten-  
 11 sions) is after the date of the enactment of this Act.

12 **SEC. 5803. RELIEF FROM RETROACTIVE APPLICATION OF**  
 13 **TREASURY DEPARTMENT REGULATIONS.**

14 (a) IN GENERAL.—Subsection (b) of section 7805  
 15 (relating to rules and regulations) is amended to read as  
 16 follows:

17 “(b) RETROACTIVITY OF REGULATIONS.—

18 “(1) IN GENERAL.—Except as otherwise pro-  
 19 vided in this subsection, no temporary, proposed, or  
 20 final regulation relating to the internal revenue laws  
 21 shall apply to any taxable period ending before the  
 22 earliest of the following dates:

23 “(A) The date on which such regulation is  
 24 filed with the Federal Register.



1           “(B) In the case of any final regulation,  
2           the date on which any proposed or temporary  
3           regulation to which such final regulation relates  
4           was filed with the Federal Register.

5           “(C) The date on which any notice sub-  
6           stantially describing the expected contents of  
7           any temporary, proposed, or final regulation is  
8           issued to the public.

9           “(2) EXCEPTION FOR PROMPTLY ISSUED REGU-  
10          LATIONS.—Paragraph (1) shall not apply to regula-  
11          tions issued within 12 months of the date of the en-  
12          actment of the statutory provision to which the regu-  
13          lation relates.

14          “(3) PREVENTION OF ABUSE.—The Secretary  
15          may provide that any regulation may take effect or  
16          apply retroactively to prevent abuse of a statute to  
17          which the regulation relates.

18          “(4) CORRECTION OF PROCEDURAL DE-  
19          FECTS.—The Secretary may provide that any regu-  
20          lation may apply retroactively to correct a proce-  
21          dural defect in the issuance of any prior regulation.

22          “(5) INTERNAL REGULATIONS.—The limitations  
23          of paragraph (1) shall not apply to any regulation  
24          relating to internal Treasury Department policies,  
25          practices or procedures.



1           “(6) CONGRESSIONAL AUTHORIZATION.—The  
2           limitation of paragraph (1) may be superseded by a  
3           legislative grant from Congress authorizing the Sec-  
4           retary to prescribe the effective date with respect to  
5           any regulation.

6           “(7) ELECTION TO APPLY RETROACTIVELY.—  
7           The Secretary may provide for any taxpayer to elect  
8           to apply any regulation before the dates specified in  
9           paragraph (1).

10          “(8) APPLICATION TO RULINGS.—The Sec-  
11          retary may prescribe the extent, if any, to which any  
12          ruling (including any judicial decision or any admin-  
13          istrative determination other than by regulation) re-  
14          lating to the internal revenue laws shall be applied  
15          without retroactive effect.”

16          (b) EFFECTIVE DATE.—

17                (1) IN GENERAL.—Except as provided in para-  
18                graphs (2) and (3), the amendment made by sub-  
19                section (a) shall apply with respect to—

20                    (A) any temporary or proposed regulation  
21                    filed on or after January 5, 1993, and

22                    (B) any temporary or proposed regulation  
23                    filed before January 5, 1993, and filed as a  
24                    final regulation after such date.



1           (2) SPECIAL RULE.—Section 7805(b)(2) of the  
2       Internal Revenue Code of 1986 (as added by sub-  
3       section (a)) shall apply only to statutes enacted on  
4       or after the date of the enactment of this Act.

5   **SEC. 5804. REQUIRED NOTICE OF CERTAIN PAYMENTS.**

6       If any payment is received by the Secretary of the  
7       Treasury or the Secretary’s delegate (hereafter in the sec-  
8       tion referred to as the “Secretary”) from any taxpayer  
9       and the Secretary cannot associate such payment with any  
10      outstanding tax liability of such taxpayer, the Secretary  
11      shall make reasonable efforts to notify the taxpayer of  
12      such inability within 60 days after the receipt of such pay-  
13      ment.

14   **SEC. 5805. UNAUTHORIZED ENTICEMENT OF INFORMATION**  
15                   **DISCLOSURE.**

16      (a) IN GENERAL.—Subchapter B of chapter 76 (re-  
17      lating to proceedings by taxpayers and third parties) is  
18      amended by redesignating section 7434 as section 7435  
19      and by inserting after section 7433 the following new sec-  
20      tion:

21   **“SEC. 7434. CIVIL DAMAGES FOR UNAUTHORIZED ENTICE-**  
22                   **MENT OF INFORMATION DISCLOSURE.**

23      “(a) IN GENERAL.—If any officer or employee of the  
24      United States intentionally compromises the determina-  
25      tion or collection of any tax due from an attorney, certified



1 public accountant, or enrolled agent representing a tax-  
2 payer in exchange for information conveyed by the tax-  
3 payer to the attorney, certified public accountant, or en-  
4 rolled agent for purposes of obtaining advice concerning  
5 the taxpayer's tax liability, such taxpayer may bring a civil  
6 action for damages against the United States in a district  
7 court of the United States. Such civil action shall be the  
8 exclusive remedy for recovering damages resulting from  
9 such actions.

10       “(b) DAMAGES.—In any action brought under sub-  
11 section (a), upon a finding of liability on the part of the  
12 defendant, the defendant shall be liable to the plaintiff in  
13 an amount equal to the lesser of \$500,000 or the sum  
14 of—

15               “(1) actual, direct economic damages sustained  
16       by the plaintiff as a proximate result of the informa-  
17       tion disclosure, and

18               “(2) the costs of the action.

19 Damages shall not include the taxpayer's liability for any  
20 civil or criminal penalties, or other losses attributable to  
21 incarceration or the imposition of other criminal sanctions.

22       “(c) PAYMENT AUTHORITY.—Claims pursuant to  
23 this section shall be payable out of funds appropriated  
24 under section 1304 of title 31, United States Code.



1       “(d) PERIOD FOR BRINGING ACTION.—Notwith-  
2 standing any other provision of law, an action to enforce  
3 liability created under this section may be brought without  
4 regard to the amount in controversy and may be brought  
5 only within 2 years after the date the actions creating such  
6 liability would have been discovered by exercise of reason-  
7 able care.

8       “(e) MANDATORY STAY.—Upon a certification by the  
9 Commissioner or the Commissioner’s delegate that there  
10 is an ongoing investigation or prosecution of the taxpayer,  
11 the district court before which an action under this section  
12 is pending, shall stay all proceedings with respect to such  
13 action pending the conclusion of the investigation or pros-  
14 ecution.

15       “(f) CRIME-FRAUD EXCEPTION.—Subsection (a)  
16 shall not apply to information conveyed to an attorney,  
17 certified public accountant, or enrolled agent for the pur-  
18 pose of perpetrating a fraud or crime.”

19       (b) CLERICAL AMENDMENT.—The table of sections  
20 for subchapter B of chapter 76 is amended by striking  
21 the item relating to section 7434 and by adding at the  
22 end thereof the following new items:

“Sec. 7434. Civil damages for unauthorized enticement of infor-  
mation disclosure.

“Sec. 7435. Cross references.”



1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to actions after the date of the  
3 enactment of this Act.

4 **Subtitle J—Form Modifications;**  
5 **Studies**

6 **SEC. 5900. DEFINITIONS.**

7 For purposes of this subtitle:

8 (1) SECRETARY.—The term “Secretary” means  
9 the Secretary of the Treasury or his delegate.

10 (2) 1986 CODE.—The term “1986 Code”  
11 means the Internal Revenue Code of 1986.

12 (3) TAX-WRITING COMMITTEES.—The term  
13 “tax-writing Committees” means the Committee on  
14 Ways and Means of the House of Representatives  
15 and the Committee on Finance of the Senate.

16 **PART I—FORM MODIFICATIONS**

17 **SEC. 5901. EXPLANATION OF CERTAIN PROVISIONS.**

18 (a) GENERAL RULE.—The Secretary shall take such  
19 actions as may be appropriate to ensure that taxpayers  
20 are aware of the provisions of the 1986 Code permitting  
21 payment of tax in installments, extensions of time for pay-  
22 ment of tax, and compromises of tax liability. Such actions  
23 shall include revising the instructions for filing income tax  
24 returns so that such instructions include an explanation  
25 of—



1           (1) the procedures for requesting the benefits of  
2       such provisions, and

3           (2) the terms and conditions under which the  
4       benefits of such provisions are available.

5       (b) COLLECTION NOTICES.—In any notice of an  
6       underpayment of tax or proposed underpayment of tax  
7       sent by the Secretary to any taxpayer, the Secretary shall  
8       include a notification of the availability of the provisions  
9       of sections 6159, 6161, and 7122 of the 1986 Code.

10   **SEC. 5902. IMPROVED PROCEDURES FOR NOTIFYING SERV-**  
11                           **ICE OF CHANGE OF ADDRESS OR NAME.**

12       The Secretary shall provide improved procedures for  
13       taxpayers to notify the Secretary of changes in names and  
14       addresses. Not later than June 30, 1994, the Secretary  
15       shall institute procedures for timely updating all Internal  
16       Revenue Service records with change-of-address informa-  
17       tion provided to the Secretary by taxpayers.

18   **SEC. 5903. RIGHTS AND RESPONSIBILITIES OF DIVORCED**  
19                           **INDIVIDUALS.**

20       The Secretary shall include in the Internal Revenue  
21       Service publication entitled “Your Rights As A Taxpayer”  
22       a section on the rights and responsibilities of divorced in-  
23       dividuals.



**PART II—STUDIES**

**SEC. 5911. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.**

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than June 30, 1994, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

**SEC. 5912. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.**

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than June 30, 1994, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.



1 **SEC. 5913. REPORTS ON TAXPAYER-RIGHTS EDUCATION**  
2 **PROGRAM.**

3 Not later than April 1, 1994, the Secretary shall sub-  
4 mit a report to the tax-writing Committees on the scope  
5 and content of the Internal Revenue Service's taxpayer-  
6 rights education program for its officers and employees.  
7 Not later than June 30, 1994, the Secretary shall submit  
8 a report to the tax-writing Committees on the effectiveness  
9 of the program referred to in the preceding sentence.

10 **SEC. 5914. BIENNIAL REPORTS ON MISCONDUCT BY INTER-**  
11 **NAL REVENUE SERVICE EMPLOYEES.**

12 During June 30, 1994 and during June of each sec-  
13 ond calendar year thereafter, the Secretary shall report  
14 to the tax-writing Committees on all cases involving com-  
15 plaints about misconduct of Internal Revenue Service em-  
16 ployees and the disposition of such complaints.

17 **SEC. 5915. STUDY OF NOTICES OF DEFICIENCY.**

18 (a) GENERAL RULE.—The Comptroller General shall  
19 conduct a study on—

20 (1) the effectiveness of current Internal Reve-  
21 nue Service efforts to notify taxpayers with regard  
22 to tax deficiencies under section 6212 of the 1986  
23 Code,

24 (2) the number of registered or certified letters  
25 and other notices returned to the Internal Revenue  
26 Service as undeliverable,



1           (3) any follow-up action taken by the Internal  
2       Revenue Service to locate taxpayers who did not re-  
3       ceive actual notice,

4           (4) the effect that failures to receive notice of  
5       such deficiencies have on taxpayers, and

6           (5) recommendations to improve Internal Reve-  
7       nue Service notification of taxpayers.

8       (b) REPORT.—Not later than June 30, 1994, the  
9       Comptroller General shall submit to the tax-writing Com-  
10      mittees a report on the study conducted under subsection  
11      (a), together with such recommendations as he may deem  
12      advisable.

13   **SEC. 5916. NOTICE AND FORM ACCURACY STUDY.**

14      (a) GENERAL RULE.—The Comptroller General shall  
15      conduct annual studies of the accuracy of 25 of the most  
16      commonly used Internal Revenue Service forms, notices,  
17      and publications. In conducting any such study, the Comp-  
18      troller General shall examine the suitability and usefulness  
19      of Internal Revenue Service telephone numbers on Inter-  
20      nal Revenue Service notices and shall solicit and consider  
21      the comments of organizations representing taxpayers,  
22      employers, and tax professionals.

23      (b) REPORTS.—The Comptroller General shall sub-  
24      mit to the tax-writing Committees a report on each study  
25      conducted under subsection (a), together with such rec-



1 ommendations as he may deem advisable. The first such  
 2 report shall be submitted not later than June 30, 1994.

3 **TITLE VI—OTHER INTERNAL**  
 4 **REVENUE CODE PROVISIONS**  
 5 **Subtitle A—Extension of Authority**  
 6 **for Undercover Operations;**  
 7 **Cash-Transaction Reports**

8 **SEC. 6001. EXTENSION OF AUTHORITY FOR UNDERCOVER**  
 9 **OPERATIONS.**

10 (a) 3-YEAR EXTENSION.—

11 (1) IN GENERAL.—Subsection (c) of section  
 12 7608 (relating to undercover operations) is amended  
 13 by adding at the end thereof the following new para-  
 14 graph:

15 “(6) TERMINATION.—The provisions of this  
 16 subsection shall cease to apply on and after Septem-  
 17 ber 1, 1995; and all amounts expended pursuant to  
 18 this subsection shall be recovered to the extent pos-  
 19 sible, and deposited in the Treasury of the United  
 20 States as miscellaneous receipts, before such date.”

21 (2) CONFORMING AMENDMENT.—Paragraph (3)  
 22 of section 7601(c) of the Anti-Drug Abuse Act of  
 23 1988 is amended by striking all that follows “this  
 24 Act” and inserting a period.



1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall take effect on January 1,  
3       1992.

4       (b) ENHANCED OVERSIGHT.—

5           (1) ADDITIONAL INFORMATION REQUIRED IN  
6       REPORTS TO CONGRESS.—Subparagraph (B) of sec-  
7       tion 7608(c)(4) is amended—

8           (A) by striking “preceding the period” in  
9       clause (ii),

10          (B) by striking “and” at the end of clause  
11       (ii), and

12          (C) by striking clause (iii) and inserting  
13       the following:

14               “(iii) the number, by programs, of un-  
15       dercover investigative operations closed in  
16       the 1-year period for which such report is  
17       submitted, and

18               “(iv) the following information with  
19       respect to each undercover investigative op-  
20       eration pending as of the end of the 1-year  
21       period for which such report is submitted  
22       or closed during such 1-year period—

23                       “(I) the date the operation began  
24                       and the date of the certification re-



1           ferred to in the last sentence of para-  
2           graph (1),

3           “(II) the total expenditures  
4           under the operation and the amount  
5           and use of the proceeds from the op-  
6           eration,

7           “(III) a detailed description of  
8           the operation including the potential  
9           violation being investigated and  
10          whether the operation is being con-  
11          ducted under grand jury auspices, and

12          “(IV) the results of the operation  
13          including the results of criminal pro-  
14          ceedings.”

15          (2) AUDITS REQUIRED WITHOUT REGARD TO  
16          AMOUNTS INVOLVED.—Subparagraph (C) of section  
17          7608(c)(5) is amended to read as follows:

18               “(C) UNDERCOVER INVESTIGATIVE OPER-  
19               ATION.—The term ‘undercover investigative op-  
20               eration’ means any undercover investigative op-  
21               eration of the Service; except that, for purposes  
22               of subparagraphs (A) and (C) of paragraph (4),  
23               such term only includes an operation which is  
24               exempt from section 3302 or 9102 of title 31,  
25               United States Code.”



1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall take effect on the date of the  
3       enactment of this Act.

4       **SEC. 6002. DISCLOSURE OF RETURNS ON CASH TRANS-**  
5                                   **ACTIONS.**

6       (a) GENERAL RULE.—Subsection (l) of section 6103  
7       (relating to disclosure of returns and return information  
8       for purposes other than tax administration) is amended  
9       by adding at the end thereof the following new paragraph:

10           “(13) DISCLOSURE OF RETURNS FILED UNDER  
11       SECTION 6050I.—The Secretary may, upon written  
12       request, disclose to officers and employees of—

13                   “(A) any Federal agency,

14                   “(B) any agency of a State or local govern-  
15       ment, or

16                   “(C) any agency of the government of a  
17       foreign country,

18       information contained on returns filed under section  
19       6050I. Any such disclosure shall be made on the  
20       same basis, and subject to the same conditions, as  
21       apply to disclosures of information on reports filed  
22       under section 5313 of title 31, United States Code;  
23       except that no disclosure under this paragraph shall  
24       be made for purposes of the administration of any  
25       tax law.”



1 (b) CONFORMING AMENDMENTS.—

2 (1) Subsection (i) of section 6103 is amended  
3 by striking paragraph (8).

4 (2) Subparagraph (A) of section 6103(p)(3) is  
5 amended—

6 (A) by striking “(7)(A)(ii), or (8)” and in-  
7 serting “or (7)(A)(ii)”, and

8 (B) by striking “or (12)” and inserting  
9 “(12), or (13)”.

10 (3) The material preceding subparagraph (A) of  
11 section 6103(p)(4) is amended—

12 (A) by striking “(5), or (8)” and inserting  
13 “or (5)”,

14 (B) by striking “(i)(3)(B)(i) or (8)” and  
15 inserting “(i)(3)(B)(i)”, and

16 (C) by striking “or (12)” and inserting  
17 “(12), or (13)”.

18 (4) Clause (ii) of section 6103(p)(4)(F) is  
19 amended—

20 (A) by striking “(5), or (8)” and inserting  
21 “or (5)”, and

22 (B) by striking “or (12) and inserting  
23 “(12), or (13)”.



1           (5) Paragraph (2) of section 7213(a) is amend-  
2       ed by striking “or (12)” and inserting “(12), or  
3       (13)”.

4       (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on the date of the enactment  
6 of this Act.

7       **Subtitle B—Provisions Relating to**  
8       **Exempt Organizations**

9       **SEC. 6101. CERTAIN ORGANIZATIONS REQUIRED TO DIS-**  
10       **CLOSE NONEXEMPT STATUS.**

11       (a) GENERAL RULE.—Subchapter B of chapter 61  
12 (relating to miscellaneous provisions) is amended by redes-  
13 ignating section 6115 as section 6116 and by inserting  
14 after section 6114 the following new section:

15       **“SEC. 6115. CERTAIN ORGANIZATIONS REQUIRED TO DIS-**  
16       **CLOSE NONEXEMPT STATUS.**

17       “(a) IN GENERAL.—If—

18           “(1) in an advertisement or solicitation by (or  
19       on behalf of) an organization, such organization is  
20       referred to as being nonprofit, and

21           “(2) such organization is not exempt from tax  
22       under subtitle A,

23       such advertisement or solicitation shall contain an express  
24       statement (in a conspicuous and easily recognizable for-



1 mat) that such organization is not exempt from Federal  
2 income taxes.

3 “(b) CROSS REFERENCE.—

“For penalties for violation of subsection (a), see  
section 6714.”

4 (b) PENALTY.—Part I of subchapter B of chapter 68  
5 is amended by adding at the end thereof the following new  
6 section:

7 **“SEC. 6714. FAILURE TO DISCLOSE NONEXEMPT STATUS.**

8 “(a) IMPOSITION OF PENALTY.—If there is a failure  
9 to meet the requirements of section 6115 with respect to  
10 any advertisement or solicitation by (or on behalf of) an  
11 organization, such organization shall pay a penalty of  
12 \$1,000 for each day on which such a failure occurred. The  
13 maximum penalty imposed under this subsection on fail-  
14 ures by any organization during any calendar year shall  
15 not exceed \$10,000.

16 “(b) REASONABLE CAUSE EXEMPTION.—No penalty  
17 shall be imposed under this section with respect to any  
18 failure if it is shown that such failure is due to reasonable  
19 cause.

20 “(c) \$10,000 LIMITATION NOT TO APPLY WHERE  
21 INTENTIONAL DISREGARD.—If any failure to which sub-  
22 section (a) applies is due to intentional disregard of the  
23 requirements of section 6115—



“(1) the penalty under subsection (a) for the day on which failure occurred shall be the greater of—

“(A) \$1,000, or

“(B) 50 percent of the aggregate cost of the advertisements and solicitations which occurred on such day and with respect to which there was such failure,

“(2) the \$10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

“(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

15       “(d) DAY ON WHICH FAILURE OCCURS.—For pur-  
16 poses of this section, rules similar to the rules of section  
17 6710(d) shall apply in determining the day on which any  
18 failure occurs.”

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following:

“Sec. 6115. Certain organizations required to disclose nonexempt status.

“Sec. 6116. Cross reference.”



1           (2) The table of sections of part I of subchapter  
2       B of chapter 68 is amended by adding at the end  
3       thereof the following new item:

                  “Sec. 6714. Failure to disclose nonexempt status.”

4       (d) EFFECTIVE DATE.—The amendments made by  
5       this section shall take effect on January 1, 1994.

6       **SEC. 6102. EXEMPT ORGANIZATIONS REQUIRED TO PRO-**  
7                       **VIDE COPY OF RETURN.**

8       (a) GENERAL RULE.—

9           (1) Subparagraph (A) of section 6104(e)(1) (re-  
10       lating to public inspection of annual returns) is  
11       amended to read as follows:

12                   “(A) IN GENERAL.—During the 3-year pe-  
13       riod beginning on the filing date—

14                           “(i) a copy of the annual return filed  
15                           under section 6033 (relating to returns by  
16                           exempt organizations) by any organization  
17                           to which this paragraph applies shall be  
18                           made available by such organization for in-  
19                           spection during regular business hours by  
20                           any individual at the principal office of  
21                           such organization and, if such organization  
22                           regularly maintains 1 or more regional or  
23                           district offices having 3 or more employees,  
24                           at each such regional or district office, and



1           “(ii) upon request of an individual  
2           made at such principal office or such a re-  
3           gional or district office, a copy of such an-  
4           nual return shall be provided to such indi-  
5           vidual without charge other than a reason-  
6           able fee for the cost of reproduction.

7           If the request under clause (ii) is made in per-  
8           son, such copy shall be provided immediately  
9           and, if made other than in person, shall be pro-  
10          vided within 30 days.”

11          (2) Clause (ii) of section 6104(e)(2)(A) is  
12          amended by inserting before the period at the end  
13          thereof the following: “(and, upon request of an in-  
14          dividual made at such principal office or such a re-  
15          gional or district office, a copy of the material re-  
16          quired to be available for inspection under this sub-  
17          paragraph shall be provided (in accordance with the  
18          last sentence of paragraph (1)(A)) to such individual  
19          without charge other than a reasonable fee for the  
20          cost of reproduction)”.

21          (b) ADVERTISEMENTS ETC., REQUIRED TO DIS-  
22          CLOSE AVAILABILITY OF ANNUAL RETURN.—

23          (1) Paragraph (1) of section 6104(e) is amend-  
24          ed by adding at the end thereof the following new  
25          subparagraph:



1           “(E) ADVERTISEMENTS ETC., REQUIRED  
2 TO DISCLOSE AVAILABILITY OF ANNUAL RE-  
3 TURN.—In the case of an organization required  
4 by subparagraph (A) to provide a copy of its  
5 annual return under section 6033 upon request  
6 to individuals, each advertisement or solicitation  
7 by (or on behalf of) such organization shall con-  
8 tain an express statement (in a conspicuous and  
9 easily recognizable format) that such return  
10 shall be provided to individuals upon request.”

11 (2) Section 6714 is amended—

12           (A) by striking “section 6115” each place  
13 it appears and inserting “section 6115 or sec-  
14 tion 6104(e)(1)(E)”,

15           (B) by striking “\$1,000” in subsection (a)  
16 and inserting “\$1,000 (\$100 in the case of a  
17 failure to meet the requirements of  
18 6104(e)(1)(E))”, and

19           (C) by inserting before the period at the  
20 end of the section heading “; **FAILURE OF**  
21 **CERTAIN EXEMPT ORGANIZATIONS TO DIS-**  
22 **CLOSE AVAILABILITY OF ANNUAL RE-**  
23 **TURN**”.

24           (3) Subparagraph (C) of section 6652(c)(1) is  
25 amended by striking “(e)(1)” and inserting “(e)(1)



1 (other than subparagraph (E))”, and by striking  
 2 “\$10” and inserting “\$50”.

3 (4) Subparagraph (D) of section 6652(c)(1) is  
 4 amended by striking “\$10” and inserting “\$50”.

5 (5) The item relating to section 6714 in the  
 6 table of sections for part I of subchapter B of chap-  
 7 ter 68 is amended by inserting before the period “;  
 8 failure of certain exempt organizations to disclose  
 9 availability of annual return”.

10 (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall take effect on January 1, 1994.

12 **TITLE VII—PROHIBITION OF**  
 13 **MISUSE OF DEPARTMENT OF**  
 14 **THE TREASURY NAMES, SYM-**  
 15 **BOLS, ETC**

16 **SEC. 7001. PROHIBITION OF MISUSE OF DEPARTMENT OF**  
 17 **THE TREASURY NAMES, SYMBOLS, ETC.**

18 (a) GENERAL RULE.—Subchapter II of chapter 3 of  
 19 title 31, United States Code, is amended by adding at the  
 20 end thereof the following new section:

21 **“§ 333. Prohibition of misuse of Department of the**  
 22 **Treasury names, symbols, etc.**

23 “(a) GENERAL RULE.—No person may use, in con-  
 24 nection with, or as a part of, any advertisement, sollicita-



1 tion, business activity, or product, whether alone or with  
2 other words, letters, symbols, or emblems—

3 “(1) the words ‘Department of the Treasury’,  
4 or the name of any service, bureau, office, or other  
5 subdivision of the Department of the Treasury,

6 “(2) the titles ‘Secretary of the Treasury’ or  
7 ‘Treasurer of the United States’ or the title of any  
8 other officer or employee of the Department of the  
9 Treasury,

10 “(3) the abbreviations or initials of any entity  
11 referred to in paragraph (1),

12 “(4) the words ‘United States Savings Bond’ or  
13 the name of any other obligation issued by the De-  
14 partment of the Treasury,

15 “(5) any symbol or emblem of an entity re-  
16 ferred to in paragraph (1) (including the design of  
17 any envelope or stationary used by such an entity),  
18 and

19 “(6) any colorable imitation of any such words,  
20 titles, abbreviations, initials, symbols, or emblems,  
21 in a manner which could reasonably be interpreted or con-  
22 strued as conveying the false impression that such adver-  
23 tisement, solicitation, business activity, or product is in  
24 any manner approved, endorsed, sponsored, or authorized  
25 by, or associated with, the Department of the Treasury



1 or any entity referred to in paragraph (1) or any officer  
2 or employee thereof.

3 “(b) TREATMENT OF WAIVERS.—Any determination  
4 of whether a person has violated the provisions of sub-  
5 section (a) shall be made without regard to any use of  
6 a disclaimer of affiliation with the United States Govern-  
7 ment or any particular agency or instrumentality thereof.

8 “(c) CIVIL PENALTY.—

9 “(1) IN GENERAL.—The Secretary of the  
10 Treasury may impose a civil penalty on any person  
11 who violates the provisions of subsection (a).

12 “(2) AMOUNT OF PENALTY.—The amount of  
13 the civil penalty imposed by paragraph (1) shall not  
14 exceed \$5,000 for each use of any material in viola-  
15 tion of subsection (a). If such use is in a broadcast  
16 or telecast, the preceding sentence shall be applied  
17 by substituting ‘\$25,000’ for ‘\$5,000’.

18 “(3) TIME LIMITATIONS.—

19 “(A) ASSESSMENTS.—The Secretary of the  
20 Treasury may assess any civil penalty under  
21 paragraph (1) at any time before the end of the  
22 3-year period beginning on the date of the vio-  
23 lation with respect to which such penalty is im-  
24 posed.



1           “(B) CIVIL ACTION.—The Secretary of the  
2           Treasury may commence a civil action to re-  
3           cover any penalty imposed under this subsection  
4           at any time before the end of the 2-year period  
5           beginning on the date on which such penalty  
6           was assessed.”.

7           (b) CLERICAL AMENDMENT.—The analysis for chap-  
8           ter 3 of title 31, United States Code, is amended by add-  
9           ing after the item relating to section 332 the following  
10          new item:

          “333. Prohibition of misuse of Department of the Treasury names, symbols,  
          etc.”.

11          (c) EFFECTIVE DATE.—The amendments made by  
12          this section shall take effect on the date of the enactment  
13          of this Act.

14          (d) REPORT.—Not later than May 1, 1995, the Sec-  
15          retary of the Treasury shall submit a report to the Com-  
16          mittee on Ways and Means of the House of Representa-  
17          tives and the Committee on Finance of the Senate on the  
18          implementation of the amendments made by this section.  
19          Such report shall include the number of cases in which  
20          the Secretary has notified persons of violations of section  
21          333 of title 31, United States Code (as added by sub-  
22          section (a)), the number and amount of civil penalties as-  
23          sessed under such section, and the total amount of such  
24          penalties collected.





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